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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

CAPITAL ONE TAXI MEDALLION FINANCE,

Plaintiff,

-against- Index No: 608014/2015

JEB MANAGEMENT CORP. and RUBEN ELBERG,

Defendants.

875 Third Avenue
New York, New York

June 22, 2017

9:54 a.m.

EXAMINATION BEFORE TRIAL of RUBEN ELBERG,
the Judgment Debtor in the above-entitled
action, held at the above time and place, taken
before Alice Schulman, a Notary Public of the
State of New York, pursuant to Subpoena and
stipulations between Counsel.

<p>1 2 APPEARANCES: 3 4 TROUTMAN SANDERS LLP 5 Attorneys for Plaintiff/ Judgment Creditor CAPITAL ONE 6 TAXI MEDALLION FINANCE, a trade name for All Points Capital Corp., N/K/A Capital One Equipment Finance Corp. 7 875 Third Avenue New York, New York 10022 8 BY: JONATHAN D. FORSTOT, ESQ., ANDREW BUCK, ESQ. 9 10 11 ABRAMS, FENSTERMAN, FENSTERMAN, EISMAN, FORMATO, FERRARA & WOLF, LLP Attorneys for RUBEN ELBERG 13 3 Dakota Drive - Suite 300 Lake Success, New York 11042 14 BY: BRIAN T. McCARTHY, ESQ. 15 * * *</p>	<p>Page 2</p> <p>1 2 IT IS FURTHER STIPULATED, a copy of this 3 examination shall be furnished to the attorney 4 for the witness being examined without charge. 5 * * * 6 R U B E N E L B E R G, the Witness herein, 7 having first been duly affirmed by the Notary 8 Public, was examined and testified as follows: 9 EXAMINATION BY 10 MR. FORSTOT: 11 Q. What is your name? 12 A. Ruben Elberg. 13 Q. Where do you reside? 14 A. 1523 President Street, Brooklyn, 15 New York 11213. 16 Q. Mr. Elberg, I'm Jonathan Forstot of 17 Troutman & Sanders on behalf of Capital One. 18 Have you been deposed before? 19 A. Maybe once before. 20 Q. Maybe once, you're not sure? 21 A. Once before, yes. 22 Q. So you know how this works? 23 A. Not very well. If you can explain, 24 I would appreciate it. 25 Q. I'll be asking you questions and</p>
<p>1 2 STIPULATIONS 3 IT IS HEREBY STIPULATED, by and between the 4 attorneys for the respective parties hereto, 5 that: 6 All rights provided by the C.P.L.R., and 7 Part 221 of the Uniform Rules for the Conduct of 8 Depositions, including the right to object to 9 any question, except as to form, or to move to 10 strike any testimony at this examination is 11 reserved; and in addition, the failure to object 12 to any question or to move to strike any 13 testimony at this examination shall not be a bar 14 or waiver to make such motion at, and is 15 reserved to, the trial of this action. 16 This deposition may be sworn to by the 17 witness being examined before a Notary Public 18 other than the Notary Public before whom this 19 examination was begun, but the failure to do so 20 or to return the original of this deposition to 21 counsel, shall not be deemed a waiver of the 22 rights provided by Rule 3116, C.P.L.R., and 23 shall be controlled thereby. 24 The filing of the original of this 25 deposition is waived.</p>	<p>Page 3</p> <p>1 2 Ruben Elberg 3 you're under oath. The court reporter will take 4 down a transcript of everything we say, so make 5 sure your answers are oral, not nods of the 5 head, no gestures. 6 A. No problem. 7 Q. We need to have a written 8 transcript of this. If you don't understand 9 anything I ask you, please let me know and I'll 10 try to rephrase it so you understand the 11 question, okay? 12 A. Yes. 13 Q. You gave an address to the court 14 reporter, that's where you presently live? 15 A. Yes. 16 Q. Do you have any other residences 17 besides that? 18 A. No. 19 Q. You are therefore a resident of the 20 State of New York, correct? 21 A. Yes. 22 Q. Who else lives at that address with 23 you? 24 A. My wife and nine children. 25 Q. Anybody else?</p>

<p>1 Ruben Elberg</p> <p>2 A. No.</p> <p>3 Q. What kind of structure, is it a 4 house, an apartment?</p> <p>5 A. A private house.</p> <p>6 Q. So a stand-alone house?</p> <p>7 A. Yes.</p> <p>8 Q. On President Street?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Who owns the house?</p> <p>11 A. I do with my wife.</p> <p>12 Q. You said nine of your children live 13 there?</p> <p>14 A. Yes.</p> <p>15 Q. You have a total of 14 children?</p> <p>16 A. Yes, I do.</p> <p>17 Q. Where are the other children who 18 don't live with you?</p> <p>19 A. Some of them are married, and some 20 of them are in Yeshivas, and then when they come 21 back, they live with us for a month or two and 22 then they go back. They're not steadily in our 23 home, they're in Yashivas.</p> <p>24 Q. Are the Yashivas in New York?</p> <p>25 A. One was in Westchester, one was in</p>	<p>Page 6</p> <p>1 Ruben Elberg</p> <p>2 these other litigations, correct?</p> <p>3 A. Yes. I shouldn't say that, forgive 4 me. There were some documents translated from 5 English to Chinese when we went out to market 6 one of the projects we were involved in, so I 7 want to correct my answer.</p> <p>8 Q. Listen carefully to my question.</p> <p>9 Did you have to have any document translated 10 from English into another language for you to be 11 able to understand if?</p> <p>12 A. No, not for me.</p> <p>13 Q. Let's go over, why don't you tell 14 me the names, ages of your 14 children and who 15 lives with you and who doesn't.</p> <p>16 A. We have Baruch who is nine years 17 old.</p> <p>18 Q. He lives where?</p> <p>19 A. With us. Channa who is 12 years 20 old, she lives with us. We have Ahron, he's 13, 21 he lives with us. We have Levi who is his twin, 22 also 13.</p> <p>23 Q. He lives with you?</p> <p>24 A. With us, yes. We have Yisrael, 25 he's 15. If I'm off a little bit on the ages,</p>
<p>1 Ruben Elberg</p> <p>2 Los Angeles, which is shlichus, he's an emissary 3 from higher rabbinical school, and the other one 4 was in France. S-H-L-I-C-H-U-S, it's a Hebrew 5 word.</p> <p>6 Q. Is English your native language?</p> <p>7 A. No, I was born in Russia.</p> <p>8 Q. What languages do you speak besides 9 English?</p> <p>10 A. Russian, Hebrew, I understand 11 Yiddish and Georgian and English.</p> <p>12 Q. Do you conduct business in English?</p> <p>13 A. Yes, I do.</p> <p>14 Q. Do you believe you need an 15 interpreter to understand any of my questioning?</p> <p>16 A. I don't believe so. If I have 17 questions, I'll try to ask you to clarify.</p> <p>18 Q. You're involved in several 19 litigations, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Have you had to have any documents 22 in any of those litigations translated for you 23 into a language other than English?</p> <p>24 A. No.</p> <p>25 Q. So you've been using English in</p>	<p>Page 7</p> <p>1 Ruben Elberg</p> <p>2 forgive me. I believe I'm telling you 3 everything correctly. Yisrael, we have Moshe.</p> <p>4 Q. Wait, where does Yisrael live?</p> <p>5 A. With us. We have Moshe who is 17. 6 He is in Yashiva in Westchester, and he just 7 came back just recently. So his summer, he is 8 at home.</p> <p>9 Q. Is he going to go back to Yashiva 10 after the summer?</p> <p>11 A. I don't know. I don't know where. 12 We are working on it, we just don't know which 13 Yashiva yet. We have Shneur, he is 19, and he 14 was in Brunoy, France.</p> <p>15 Q. How do you spell that?</p> <p>16 A. B-R-O-I-N-O, Brunoy, France, in 17 Yashiva. And we have Josef, he's 22. He was in 18 Yashiva in Los Angeles.</p> <p>19 Q. You said he was or is he?</p> <p>20 A. He is coming back, he was and he's 21 coming back in a week, and I don't know what 22 he's going to do next year. For the last year 23 he was there. He's still there, and he's coming 24 back in a week. Should I continue?</p> <p>25 Q. Yes, please.</p>

<p style="text-align: right;">Page 10</p> <p>1 Ruben Elberg 2 A. Then we have David. He's supposed 3 to be in Yashiva in Crown Heights. 4 Q. How old is he? 5 A. He's 23. 6 Q. Does he live at home or at the 7 Yashiva? 8 A. Yes. And we have Mandel, he's 9 married. He's 24 and a half I would say. 10 Q. Where does Mandel live? 11 A. In Crown Heights. 12 Q. In his own place? 13 A. He's renting an apartment. 14 Q. Next. 15 A. Then we have Miriam. She lives 16 with us and she's a teacher. 17 Q. How old? 18 A. Twenty-six. 19 Q. Okay. 20 A. Then we have Shterna, she is 27 and 21 she lives in her own home, she's married. 22 Q. Where does she live? 23 A. Crown Heights. 24 Q. Okay. 25 A. Then we have Dina.</p>	<p style="text-align: right;">Page 12</p> <p>1 Ruben Elberg 2 Q. There's not somebody named Shabtai? 3 A. Shabtai is Mandel. Shabtai 4 Menachem, he has three names. 5 Q. What is your name? 6 A. Ruben Elberg. 7 Q. Do you go by any other names? 8 A. No. 9 Q. Have you ever gone by any other 10 name? 11 A. No. 12 Q. So -- 13 A. Do you have bottled water? 14 MR. BUCK: He's looking for 15 unopened. 16 THE WITNESS: I appreciate it. 17 Thank you so much. 18 Q. Baruch is the youngest? 19 A. Yes, sir. 20 Q. He lives with you. Does he go to 21 school? 22 A. Yes, he goes to Yashiva. 23 Q. Is there a tuition for that school? 24 A. Yes, there is. 25 Q. Who pays the tuition?</p>
<p style="text-align: right;">Page 11</p> <p>1 Ruben Elberg 2 Q. Dina you said? 3 A. Yes, she's 30 years old and she's 4 married. 5 Q. Where does Dina live? 6 A. In Crown Heights. 7 Q. But not with you? 8 A. No. 9 Q. The area of Brooklyn you live in, 10 what area is that? 11 A. Crown Heights. 12 Q. So the President Street address is 13 in Crown Heights? 14 A. Yes. 15 Q. Okay. 16 A. Then we have Tsipora who is also a 17 teacher and she's living in Crown Heights as 18 well with us, and she's 30 years old. 19 Q. You said she's a teacher? 20 A. A teacher, yes. 21 Q. And lives with you? 22 A. With us in the house, yes. She's 23 not married yet. 24 Q. Is that everybody? 25 A. Yes.</p>	<p style="text-align: right;">Page 13</p> <p>1 Ruben Elberg 2 A. For the past two, three years, 3 unfortunately I have not been able to pay the 4 tuition, but I had a good track record in the 5 past years with Yeshivas, and they have been 6 patient with me, so they have not been, you 7 know, throwing my kids out of school. 8 Q. So you haven't paid tuition in 9 three years? 10 A. Two and a half, three years, yeah. 11 It's unfortunate, but that's the reality. 12 Q. And Channa? 13 A. She's also in Yashiva. 14 Q. Sorry? 15 A. She's also in Yashiva, in girl's 16 Yashiva. 17 Q. She lives with you but goes to a 18 girl's Yashiva? 19 A. Yes. 20 Q. Who pays her tuition? 21 A. Also the same thing, the first year 22 maybe I paid a little bit, and the second year I 23 paid something towards it, but I haven't paid 24 anything in the past two years. 25 Q. Levi and Ahron?</p>

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<p>1 Ruben Elberg 2 A. The same thing. 3 Q. They live at home, they go to 4 Yashiva but you're not paying tuition? 5 A. Unfortunately I'm unable to. 6 Q. Yisrael? 7 A. Yisrael, the same thing. 8 Q. Yisrael lives at home, goes to 9 Yashiva, but you don't pay tuition? 10 A. Yes, sir. 11 Q. Moshe? 12 A. Moshe same thing. Moshe, the past 13 two years I haven't paid tuition, but the last 14 year now I paid some towards because he's out of 15 town Yashiva, so you have to pay something. So 16 I paid some money towards the tuition, but I 17 still owe at least half of it, if not more. 18 Q. So there's tuition and there's also 19 living expenses; is that right? 20 A. That's part of it, that's all 21 inclusive. 22 Q. How much is that on an annual basis 23 for Moshe for the last year? 24 A. I committed to approximately 65 or 25 \$6,000 completely.</p>	<p>Page 14</p> <p>1 Ruben Elberg 2 A. Yes. 3 Q. But you don't know exactly? 4 A. I don't have the exact date. I can 5 check. 6 Q. You're going to owe how much, 400 7 some odd thousand dollars? 8 A. 420, I'm paying ten percent 9 interest a year which comes to 35,000 a year. 10 So if you multiply by two, that's 70,000. 11 Q. Have you made any repayments yet? 12 A. No. 13 Q. When you say you have to pay him in 14 six months to a year, is that the entire 15 repayment -- 16 A. He knows -- 17 Q. Let me finish the question. Is it 18 the first of a number of repayments? I'm not 19 following what you're going to be doing in six 20 months to a year. 21 A. I got the loan for litigation 22 purposes, and he is flexible with me. He gave 23 me a two-year period, but he can extend it for 24 another year if it's necessary. I'm in 25 discussions with him now, so there's no final</p>
<p>1 Ruben Elberg 2 Q. You committed, is that what they 3 charge or is that what you said you would pay? 4 A. They generally charge, they wanted 5 eight, and I committed to six, and I paid some 6 of it, I didn't pay all of it yet. 7 Q. Where did you get the money to pay 8 that? 9 A. I had borrowed money twice in the 10 last two years because of the litigation, from 11 personal loans and interest and basically paid 12 legal expenses and other expenses that I've had 13 to maintain myself going forward. 14 Q. Who loaned you the money and how 15 much? 16 A. There was a friend whose name is 17 Shalom Bahr, and I think his fund is called 18 Kerem Menahem Fund, Kerem Menahem Trust, I 19 think. I borrowed from him \$350,000, interest 20 to be paid at the end of the two-year period, 21 and that would be like 420 by the time I have to 22 pay it back. 23 Q. When is it due to be repaid? 24 A. In about six months to a year. 25 Q. From now?</p>	<p>Page 15</p> <p>1 Ruben Elberg 2 date that I have right now. 3 Q. Originally, did you sign a note? 4 A. Yes, I did. My house is good as a 5 guarantee. 6 Q. Is there a due date on the note? 7 A. Yes, there are two stages. One was 8 250 and another hundred was given to me. The 9 first loan was January, and the second loan was 10 September of 2016, so it was two years per. 11 Q. So the first note is due if there's 12 no extension in January of 2018, and then the 13 next note is due -- 14 A. In September. 15 Q. -- September of 2018; is that 16 correct? 17 A. Yes. 18 Q. You said you guaranteed with the 19 house, the house you live in? 20 A. I gave him my house as a guarantee 21 to repay the loan because I have equity in the 22 house, so I gave him that as a guarantee. 23 Q. Did you give him a mortgage on the 24 house? 25 A. Yes, a second mortgage, I signed a</p>

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<p>1 Ruben Elberg 2 note. 3 Q. You say a few thousand of that 4 you've paid to the Westchester Yashiva? 5 A. Yes. 6 Q. You still owe them more money? 7 A. Yes. 8 Q. Shneur is in France you say? 9 A. Yes. 10 Q. Studying in Yashiva there? 11 A. Yes. 12 Q. Who is paying for that? 13 A. That's also a similar situation as 14 Moshe. I paid some of it, I owe substantial 15 money toward Yashiva tuition. And he's back and 16 he won't be going back because I don't have the 17 means to continue the Yashiva there, I don't 18 have the money to keep the payments up. 19 Q. He's home now? 20 A. He came back yesterday, so he will 21 be staying for now. 22 Q. How long was he in France for? 23 A. Just one year. 24 Q. How much did you pay for that? 25 A. That would be in the seven or</p>	<p>Page 18</p> <p>1 Ruben Elberg 2 Q. When you literally got the money, 3 did you put it in a bank or was it in cash, how 4 did you get it? 5 A. I put it in a bank. I didn't get 6 it in cash, of course not. 7 Q. Was it a check? 8 A. Check. 9 Q. Where did you deposit the check? 10 A. To my recollection, my account, my 11 personal account. 12 Q. Where is that? 13 A. Capital One. 14 Q. Any other account that you have, 15 any other bank accounts that you have? 16 A. I might have deposited it in a 17 business account. 18 Q. I'm sorry? 19 A. In a business account. 20 Q. You might have deposited that money 21 in a business account? 22 A. Or a portion of it. I can't be 23 sure now exactly where I deposited it. Some of 24 it I deposited in personal, some of it I 25 deposited in business. I can get that</p>
<p>1 Ruben Elberg 2 \$8,000 range plus travel expenses with the 3 tickets back and forth. And I didn't pay it in 4 full. I still owe money towards that as well. 5 Q. You paid seven or eight or you owe 6 seven or eight? 7 A. The amount was, I believe, eight or 8 nine if I remember correctly, and I paid maybe 9 six towards it, five and a half. 10 Q. Where did you get that money from? 11 A. Part of the loan that I borrowed 12 before. 13 Q. The moneys that you got from the 14 loans, you got the proceeds from them. What did 15 you do with the proceeds when you first received 16 each of those loans? 17 A. I paid some of it in legal fees. 18 Some of it I paid old debts that I had accrued 19 before I had from someone else, I paid that off. 20 And some of it I paid for ongoing expenses that 21 I had. 22 Q. That's not what I meant. Let me 23 clarify. When you got the first loan, the first 24 loan was how much? 25 A. 250.</p>	<p>Page 19</p> <p>1 Ruben Elberg 2 information for you if it's necessary. 3 Q. Where was that business account? 4 A. It was in Capital One. 5 Q. Both accounts are in Capital One? 6 A. Yes, and then I have another 7 business account in Bank of America. 8 Q. So we're talking three accounts 9 now? 10 A. Yes. It's a business account. 11 Q. The account that you said, the 12 personal account, is that in your name? 13 A. Yes, I supplied the personal 14 account information to you. 15 Q. That's in the name of Ruben Elberg? 16 A. Yes. 17 Q. Anybody else a signatory on that? 18 A. No. 19 Q. Just you? 20 A. Yes. 21 Q. The business account at Capital 22 One, whose name is that in? 23 A. Business account, Capital One, it's 24 in my name. 25 Q. Ruben Elberg?</p>

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<p style="text-align: right;">Page 22</p> <p>1 Ruben Elberg 2 A. Three accounts are the Capital, 3 those are Merill, Spindle and Jerub, those are 4 in Capital One. 5 Q. J-E-R-U-B, Merill and Spindle. All 6 right, let's take this a little more slowly. 7 You got 250, \$250,000 in a check? 8 A. Yes. 9 Q. When was this? 10 A. January of 2016. 11 Q. And you took that check and you 12 deposited it where? 13 A. Into a business account, business 14 account. 15 Q. Which business account? 16 A. N. Minue, Inc. 17 Q. N. Minue, Inc., N. M-I-N-U-E, Inc. 18 Where was that account? 19 A. It was, one was in Capital One and 20 I had also in Bank of America. 21 Q. Which of those two accounts did you 22 deposit that \$250,000 check in? 23 A. I don't remember. I believe it 24 should have been -- I don't have the exact 25 information. I would have to check back and</p>	<p style="text-align: right;">Page 24</p> <p>1 Ruben Elberg 2 special place like a file cabinet, do you keep 3 them all together in an organized way? 4 A. I wouldn't say, it's not the most 5 organized way. 6 Q. You would be able to find them 7 without much trouble if you needed to? 8 A. I can always get a copy if I need 9 to. 10 Q. I know that, but if you have it 11 somewhere in your home, you know where to go to 12 look to find it, correct? 13 A. Again, I don't have it in an 14 organized way. I have to look for it. If it's 15 in my home, I will give it to you. If it's not, 16 I will locate it and give it to you. I will get 17 a copy from the bank. 18 Q. It's not a big deal to do? 19 A. It's something that I would have to 20 do. 21 Q. But you would be able to do it 22 easily, correct, you can get me those 23 statements, correct? 24 A. I will work on it. 25 Q. That's not my question. My</p>
<p style="text-align: right;">Page 23</p> <p>1 Ruben Elberg 2 give you that information. 3 Q. Where would you check? 4 A. The bank, which bank account I 5 deposited it in and how much and when, I would 6 have to check it. 7 Q. When you said you would check in 8 the bank, what does that mean? 9 A. I have to check which deposits were 10 made in which banks. 11 Q. I know that. How would you do 12 that, would you go to a document, would you ask 13 somebody, how would you find out? 14 A. I would go to the bank. 15 Q. You would literally physically go 16 to the bank and ask them? 17 A. Or look at my statements and see 18 where the deposits would be. 19 Q. So you do have statements for your 20 bank accounts, correct? 21 A. Do I have statements from the bank 22 accounts, yes, I do. 23 Q. Where do you keep those? 24 A. I have them in my home, I believe. 25 Q. I mean, do you have them in a</p>	<p style="text-align: right;">Page 25</p> <p>1 Ruben Elberg 2 question is, is it difficult for you to get 3 these bank statements for me? 4 A. Why would you say it's difficult? 5 I don't understand the question. 6 Q. I'm asking if you think it's a 7 difficult task to get these bank statements. 8 A. No, I don't think so. 9 Q. So you would have to do that in 10 order to tell me which of the accounts, which of 11 the business accounts you deposited the \$250,000 12 check into, correct? 13 A. Right. 14 Q. The loan that you took out, was it 15 taken out in the name of some business or in 16 your individual name? 17 A. I gave a personal guarantee. He 18 gave it to me on my personal name. 19 Q. So the note you signed was you as 20 an individual, not on behalf of N. Minue or any 21 other entity, correct? 22 A. I don't believe so, no. 23 Q. Whatever account you put it into, 24 how much of that \$250,000 is still available to 25 you somehow?</p>

<p style="text-align: right;">Page 26</p> <p>1 Ruben Elberg 2 A. I have \$4,000 in the account. 3 Q. I'm not asking about the account. 4 I'm asking about the sum of money. You had 5 \$250,000, you deposited it into some account. 6 Whatever happened to the money, whether it moved 7 to other accounts or you used it, how much of 8 that sum is left to you available today? 9 A. \$4,000. 10 Q. So you've paid 246,000 of it to 11 various -- 12 A. Yes. 13 Q. -- payees? 14 A. Yes. 15 Q. And you've told me that you used 16 some to pay legal fees; is that right? 17 A. Yes. 18 Q. Do you know how much of that 19 246,000 went to legal fees? 20 A. I have to get a record from my 21 lawyer to see how much I paid which law firm and 22 when. 23 Q. Do you have any idea how much? 24 A. I would say more than \$300,000. 25 Remember, I told you I took an additional</p>	<p style="text-align: right;">Page 28</p> <p>1 Ruben Elberg 2 A. Two of them are. One of them I 3 would say partially still advises me. 4 Q. So they're all still your lawyers? 5 A. Yes. 6 Q. Any other law firm besides those 7 three? 8 A. No. 9 Q. I know you can't tell me exactly 10 between the two loans, but where else did the 11 money go besides you told me law firms, and you 12 used it to pay for Shneur, sorry, I can't 13 pronounce his name. 14 A. Shneur. 15 Q. Shneur, his expenses in France, 16 Yashiva and so on? 17 A. Yes. 18 Q. Did you use some of that money to 19 pay for some of the other Yeshivas you've talked 20 about? 21 A. Just a minor portion, yes. 22 Q. Anything else that money was used 23 for? 24 A. Well, my wife works, so we don't 25 have enough income. So if there's anything to</p>
<p style="text-align: right;">Page 27</p> <p>1 Ruben Elberg 2 \$100,000, so I would say more than \$300,000 has 3 gone to legal fees. 4 Q. I just want to know about that 250, 5 where it went. I would assume most of it had to 6 go to legal fees? 7 A. Most of the money went to legal 8 fees. 9 Q. Which law firm did it go to? 10 A. It went to Kaye Scholer, Levi 11 Huebner & Associates. 12 Q. What was it? 13 A. Kaye Scholer, Levi Huebner & 14 Associates, some to Abrams & Fensterman. Again, 15 I'm telling you this is all including the 16 additional funds I took. 17 Q. Because you can't divide in your 18 mind exactly how much you sent to each of one, I 19 understand. 20 A. Yes. 21 Q. Anybody else? 22 A. Those are the three legal firms 23 that I associated with. 24 Q. Are they all three still your 25 lawyers?</p>	<p style="text-align: right;">Page 29</p> <p>1 Ruben Elberg 2 offset the living expenses that we need, I used 3 some of it towards that. 4 Q. Did any of it go to Capital One to 5 reduce the judgment that Capital One has against 6 you? 7 A. No, I made multiple efforts to meet 8 with Capital One because I have over \$100,000 9 sitting in the bank account. I wanted to offer 10 to pay those funds in the three corporations, 11 and Capital One refused to meet me. 12 They actually not only refused to 13 meet but they colluded with my sister in order 14 to deny me my right to access my bank accounts 15 and be able to function properly, to be able to 16 pay my bills. 17 Q. The second \$100,000 installment of 18 the loan, of the second loan, I'm not sure if 19 it's a second loan, did you get that in cash or 20 a check? 21 A. Check. 22 Q. What did you do with that check? 23 A. The same thing. 24 Q. You deposited it? 25 A. I deposited it in the bank.</p>

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<p style="text-align: right;">Page 30</p> <p>1 Ruben Elberg 2 Q. Which bank account did you deposit 3 it in? 4 A. I would have to check, I don't 5 remember exactly. 6 Q. You would have to check the bank 7 statements you have at home? 8 A. Yes. 9 Q. Again, that was used, as far as you 10 know, for paying legal fees -- 11 A. Yes. 12 Q. -- and some other expenses; is that 13 right? 14 A. Yes. 15 Q. You just mentioned \$100,000 sitting 16 in three accounts? 17 A. Yes. 18 Q. Or an account for three companies, 19 I couldn't quite get what you said. 20 A. Yes, Merill, Spindle and Jerub has 21 been accruing income from the medallions in the 22 taxi corporations, and I made an attempt to meet 23 with Capital One. Judge Catterson reached out 24 to meet with them, to set up a meeting and try 25 to work something out.</p>	<p style="text-align: right;">Page 32</p> <p>1 Ruben Elberg 2 medallion companies, and I paid investments in 3 other businesses. I have that money, the money 4 that's owed us that was sold, and the money is 5 available to be repaid but it's stuck in this 6 unfortunate mess that we're in. 7 Q. Now, you say you borrowed money 8 from these entities. You're talking about the 9 entities that own the medallions? 10 A. Merill, Spindle and Jerub. 11 Q. So we don't have to say Merill, 12 Spindle and Jerub every time, can we call them 13 the medallion companies? 14 A. Yes. 15 MR. McCARTHY: I want to object. 16 Potentially there may be confusion among 17 other medallion companies, but for now you 18 can do it. 19 A. I would say Spindle and Merill are 20 solely owned by me, so I would rather focus when 21 I speak about my total ownership with that, and 22 Jerub is owned 50/50 with my father. One of 23 those cabs have to be associated with the other 24 company that you just mentioned. 25 Q. That's fine. Any time it becomes</p>
<p style="text-align: right;">Page 31</p> <p>1 Ruben Elberg 2 Q. What's the name? 3 A. James C-A-T-T-E-R-S-O-N. 4 Q. The money that's sitting in those 5 accounts, you're talking about that's income 6 from medallions owned by those entities? 7 A. Correct. 8 Q. That's the money that you were 9 going to, you were proposing if you were able to 10 meet with Capital One to pay to Capital One? 11 A. Pay and also negotiate some kind of 12 a direction of resolution with these judgments 13 because, you know, it's very difficult to 14 function under a scenario where you have my 15 sister saying she owns the assets of, not she, 16 but the estate owns the assets of Jerub, Spindle 17 and Merill, but the liabilities are mine. 18 And basically she's taking the 19 position that those companies belong to the 20 estate, and I have to pay the judgments on these 21 accounts. 22 Q. Because you guaranteed their debt, 23 correct? 24 A. Not only because I guaranteed it, 25 but I actually borrowed money from these</p>	<p style="text-align: right;">Page 33</p> <p>1 Ruben Elberg 2 important to distinguish, please do so. We 3 don't have to use a definition to override what 4 you think the facts are. 5 So you said you borrowed money from 6 these entities, these medallion entities. Which 7 of them did you borrow money from? 8 A. Spindle, Merill and Jerub. 9 Q. All three? 10 A. All three, yes. 11 Q. When did you do that? 12 A. From 2003 through 2012 when we 13 started diversifying into the real estate 14 sector. 15 Q. So from 2003 to 2012, you borrowed 16 money from each of those entities? 17 A. Yes. 18 Q. How did you do that? 19 A. We refinanced with Capital One, and 20 we took some equity out and we invested it in 21 real estate. 22 Q. So you took equity out? 23 A. Yes. 24 Q. But you view that as a loan from 25 the company to you or as a capital distribution?</p>

<p style="text-align: right;">Page 34</p> <p>1 Ruben Elberg 2 A. No, it was a loan, it was loans. 3 Q. How much did Merill loan you? 4 A. In total from 2003 to 2014, Merill, 5 Spindle and Jerub lent \$2,450,000 roughly. 6 Q. It lent that to you? 7 A. Lent, lent it to me, and my father 8 was handling actually the finances. So we made 9 those investments, we deposited them either in 10 their own accounts directly, Mandel, Spindle or 11 Jerub. 12 I can tell you the way the money 13 was used, or it was deposited directly into the 14 Royal One Real Estate Account or Royal Real 15 Estate Management account, or it was directly 16 wired to Rosenthal & Rosenthal who was a lender 17 on some of those properties. 18 For example, a million dollars in 19 2011, 2012 was directly wired to pay a loan down 20 on these two entities that I just described, 21 RORE and RREM. Let's just abbreviate the 22 companies, Royal One Real Estate will be 23 abbreviated to RORE and Royal Real Estate 24 management will be abbreviated to RREM, R-R-E-M. 25 Q. You said you borrowed the money.</p>	<p style="text-align: right;">Page 36</p> <p>1 Ruben Elberg 2 Q. But as far as Merill and Spindle 3 go, you're the only owner? 4 A. Correct. 5 Q. So you took a loan from each of 6 those entities? 7 A. Correct. 8 Q. So you have three loans? 9 A. Correct. 10 Q. Is there any loan documentation, a 11 loan agreement or any other documents -- 12 A. No. 13 MR. McCARTHY: Let him finish his 14 question. 15 A. I apologize. 16 Q. That's all right. Otherwise, if we 17 speak over each other, it's not going to come 18 out in the transcript. 19 A. Please finish. 20 Q. Is there any document reflecting 21 the loan between those entities and you and in 22 one case those entities between you and your 23 father? 24 A. No. 25 Q. Who made the decision to borrow</p>
<p style="text-align: right;">Page 35</p> <p>1 Ruben Elberg 2 Is there a loan agreement between you and these 3 entities? 4 A. Yes. 5 Q. Do you have a copy of that? 6 A. Yes, the Capital One, the last 2012 7 loan agreement, we have it, sure, we can supply 8 it. 9 Q. No, no, the loan from Merill, 10 Spindle and Jerub to you of \$2,450,000? 11 A. No. 12 Q. You said you borrowed money from 13 these entities. 14 A. We borrowed it from Capital One. 15 Q. The loans, there were loans made to 16 each of these medallion owning entities by 17 Capital One, correct? 18 A. Correct. 19 Q. You said, and tell me if this is 20 not what you meant, that then you borrowed 21 money, you took money out -- 22 A. We took money out. 23 Q. Who is we? 24 A. My father and me because Jerub is 25 owned by Jacob and Ruben.</p>	<p style="text-align: right;">Page 37</p> <p>1 Ruben Elberg 2 money from Merill? 3 A. I did. 4 Q. Who made the decision to borrow the 5 money from Spindle? 6 A. I did. 7 Q. And who made the decision to borrow 8 the money from Jerub? 9 A. Jacob and I. 10 Q. So you owe each of those entities 11 moneys to pay back those loans? 12 A. Yes, sir. 13 Q. When is that due? 14 A. There was a problem that created 15 the dispute between my sister and myself. The 16 problem is very simple, in 2001 when we changed 17 accountants, my father found a new accounting 18 firm. 19 He was running the taxi medallion 20 business, and he was operating it, and I gave 21 him power of attorney to do everything, he was 22 signatory on the bank accounts. 23 I was not involved day to day with 24 those operations. I was handling the real 25 estate end of the operations. So what happened</p>

<p style="text-align: right;">Page 38</p> <p>1 Ruben Elberg 2 was, when we changed from one accounting firm to 3 another, the new accountant filed all the tax 4 returns under Jacob Elberg 100 percent owner. 5 When we were borrowing money, it is 6 reflected in the tax return as if Jacob borrowed 7 the money from Spindle, Merill and Jerub as 100 8 percent owner, but all the loan documents and 9 everything else, I borrowed it. I signed for 10 it, I personally guaranteed for it. 11 Jacob also personally guaranteed 12 the companies I owned because he was running it, 13 and the money was being processed through JEB 14 Management. 15 And because he was in control of 16 the moneys, Capital One made JEB Management as 17 an additional guarantor and Jacob Elberg as an 18 additional guarantor on all those loans. 19 But I'm not a guarantor on any of 20 Jacob Elberg's other medallion loans. He was a 21 guarantor on mine. 22 Q. That's not my question. My 23 question is when is the money that was borrowed 24 by you from Merill and Spindle and borrowed by 25 you and your father from Jerub, when is that due</p>	<p style="text-align: right;">Page 40</p> <p>1 Ruben Elberg 2 A. I don't understand who would 3 negotiate that. I don't understand what you're 4 saying. 5 Q. Did anybody take Merill's side of 6 that discussion and the decision from Merill to 7 loan you Ruben Elberg money? 8 A. No. 9 Q. That was just you, right? 10 A. Yes. 11 Q. You just made the decision all on 12 your own? 13 A. Yes. 14 Q. You took money out and you decided 15 there would be a loan? 16 A. I borrowed money from my 17 corporation, and my father borrowed from his 18 corporation, and actually we did capital 19 contributions into the RORE and RREM. 20 And from there they were to be 21 capital contributions to Royal CP and Royal HI 22 entities. 23 Q. But my question is, who decided 24 that it would be, for example, in the form of a 25 loan as opposed to a distribution of equity?</p>
<p style="text-align: right;">Page 39</p> <p>1 Ruben Elberg 2 to be paid back to those entities? 3 A. It was due to be paid back after a 4 refinancing of the hotel project that we were 5 going to stabilize or a sale of the hotel 6 project that we were going to stabilize. 7 Q. Is there anything in writing that 8 says that's when it's due back? 9 A. No. 10 Q. Is there an interest rate? 11 A. The accountant was imputing two 12 percent interest in the tax returns. 13 Q. How do you know that? 14 A. I know that. 15 Q. But how do you know that? 16 A. The accountant told me. 17 Q. Which accountant is that? 18 A. Fred Roth. 19 Q. Who negotiated the loan on behalf 20 of Merill? 21 A. What do you mean by that? Please 22 clarify. 23 Q. Who took Merill's interest into 24 account and said I'm going to loan you money, to 25 you Ruben?</p>	<p style="text-align: right;">Page 41</p> <p>1 Ruben Elberg 2 A. My father and I, we discussed it 3 and we said that we were going to take this as a 4 loan and then repay it back when we could to the 5 companies. 6 Q. Why did you decide it would be a 7 loan as opposed to an equity distribution? 8 A. I don't remember the reason behind 9 it, but it was to be paid back to those 10 companies. 11 Q. You said in a prior answer that 12 Capital One colluded with your sister. What 13 evidence do you have of the collusion? 14 A. My sister had a tendency to record 15 people, and she basically recorded Mark 16 Gallagher who was Capital One Bank's lawyer 17 basically. I have a transcript of it, I 18 submitted it in the case, and it's -- 19 Q. Any evidence you had of what you 20 call collusion you submitted to the court; is 21 that right? 22 A. I'm sorry? 23 Q. Any evidence that you have of what 24 you call collusion, did you submit that to the 25 court in opposition to the summary judgment</p>

<p style="text-align: right;">Page 42</p> <p>1 Ruben Elberg 2 motion made by Capital One? 3 A. Yes, I did. 4 MR. McCARTHY: Sorry, can you just 5 read back the question, and I want to make 6 sure the answer is correct. 7 (The record was read.) 8 MR. McCARTHY: Thank you. 9 Q. So there's no other facts or what 10 you would think of as evidence of this collusion 11 that you could point me to, other than what's 12 already been submitted to the court? 13 A. There is an appeal on this case 14 that is going to be perfected by the 29th of 15 this month. So that's going to be filed by the 16 29th, and we'll see what happens. 17 Q. That's not my question. My 18 question is, do you have any other facts you can 19 point me to other than something -- 20 A. I'm not going to get into the 21 details of that litigation. 22 Q. Let me finish the question. Do you 23 have any other fact which you can point me to, 24 other than what you've already submitted to the 25 court, not a legal argument, any other fact of</p>	<p style="text-align: right;">Page 44</p> <p>1 Ruben Elberg 2 him finish his question. 3 THE WITNESS: I thought he was 4 finished, I apologize. 5 MR. McCARTHY: I'm sorry. 6 MR. FORSTOT: Thanks. 7 Q. The income that goes into that 8 account is from running the medallions, right? 9 A. Yes, sir. 10 Q. Who pays the money into each of 11 those accounts? 12 A. Napersay Management is one, and if 13 you give me a minute, I'll tell you the exact 14 names, I apologize. 15 THE WITNESS: Is that okay? 16 MR. McCARTHY: He just wants to get 17 the spelling. 18 MR. FORSTOT: That's fine. 19 A. It will take me a minute because I 20 shut this off. 21 Q. That's all right. All you're 22 trying to do is get the spelling of Napersay? 23 A. The two companies we get rental 24 income from, that's what I'm searching. 25 Q. You can do that at a break and add</p>
<p style="text-align: right;">Page 43</p> <p>1 Ruben Elberg 2 what you call collusion? 3 A. I choose not to go into that aspect 4 because I'm not ready for it, for the discussion 5 at this moment. My mind is not settled with 6 those details right now. 7 Q. Who is your lawyer on that case? 8 A. I'm pro se right now. 9 Q. Do you get statements of the 10 Merill, Spindle and Jerub accounts where this 11 money has been building up? 12 A. Yes. 13 Q. I'm sorry, where are those 14 accounts? 15 A. Capital One. 16 Q. So you're aware of how much is 17 sitting in each one? 18 A. Yes. 19 Q. Do you know roughly how much is 20 sitting in there right now? 21 A. I would say around 120,000 between 22 the three accounts, if not more. 23 Q. That is income paid by -- 24 A. Jerub, Spindle -- 25 MR. McCARTHY: You just have to let</p>	<p style="text-align: right;">Page 45</p> <p>1 Ruben Elberg 2 that. There are management companies to whom 3 Merill, Spindle and Jerub lease the medallions; 4 is that right? 5 A. Right. Merill and Spindle are 6 leased with one organization, and Jerub is 7 leased to Napersay Management. 8 Q. Is there a set monthly amount that 9 gets deposited from running the medallions? 10 A. Yes. 11 Q. How much is it? 12 A. Right now it's 1,600. 13 Q. Per medallion per month? 14 A. Per medallion per month. 15 Q. Is that the money that has created 16 this hundred and some odd thousand dollars? 17 A. Yes, sir. 18 Q. And is there any other income that 19 those entities have besides those rental 20 amounts? 21 A. No, they don't. 22 Q. Those leases, how long do they run 23 for? 24 A. They are two- to three-year lease 25 agreements and, you know, they have an option in</p>

<p style="text-align: right;">Page 46</p> <p>1 Ruben Elberg 2 the lease where they can, if the market 3 conditions are not proper, originally these 4 leases, we were generating \$3,500 a month per 5 medallion. And they started dropping, dropping 6 to a point where it's reached 1,600. 7 So they have a way where they can 8 renegotiate with us. They will give us three 9 months and they return to us the medallions, if 10 we don't agree to the negotiated terms. 11 Q. Who is managing those medallion 12 entities today? 13 A. I just told you, I can give you -- 14 Q. I don't mean the managing 15 companies. Let's say there's a renegotiation or 16 a discussion about the medallion lease rates 17 between whatever company it is and any of the 18 three medallion entities, who talks to these 19 companies on behalf of the medallion entities? 20 A. I was speaking to them until about 21 a year ago, and a year ago, I think less than a 22 year ago -- 23 THE WITNESS: Excuse me. 24 (Witness and counsel confer.) 25 A. Recently one of the management</p>	<p style="text-align: right;">Page 48</p> <p>1 Ruben Elberg 2 people. So I asked my lawyer to be in contact 3 with them to see how we can work something out 4 without -- I can't have my sister setting the 5 terms on my medallions with what income I'm 6 going to get, because I have obligations to 7 Capital One and I can't do that. She 8 interjected again like everywhere else to try to 9 undermine my ownership. 10 Q. Is there a court order that says 11 that she's got the right to do that as opposed 12 to you? 13 A. No, there is no such court order. 14 THE WITNESS: Brian, can you 15 explain the court order because I'm not 16 legally savvy with what court orders there 17 are. 18 MR. McCARTHY: We're here for your 19 deposition, so if you don't understand it, 20 that's fine. 21 Q. Other than receiving income and 22 negotiating lease rates, is there anything else 23 that needs to be done with regard to those 24 entities as far as management of the companies 25 go?</p>
<p style="text-align: right;">Page 47</p> <p>1 Ruben Elberg 2 companies, my two companies told me that 3 Pewzner's lawyer told her not to communicate 4 with me any more under any negotiation terms, 5 and to speak with Tamara in reference to those 6 negotiations, because they had sent me a letter 7 that they were returning those medallions to me 8 because the market was not, you know, 9 sustaining, they were paying me 2,500. 10 And when they sent me a letter, I 11 said okay, I'll take them back because I had 12 someone else who was willing to give us in the 13 2,000, \$2,200 range. This was like six months 14 ago, maybe more. 15 At that time, I was waiting for 16 them to return the asset so I could give it to 17 the new company which I had preliminary 18 discussions with. 19 And my sister's lawyer interjected 20 and told them not to give the taxicabs back, and 21 they renegotiated the terms to 1,600 without my 22 permission. 23 Now, I could start another 24 litigation with these people, but I just don't 25 have the means to litigate with all these</p>	<p style="text-align: right;">Page 49</p> <p>1 Ruben Elberg 2 A. No, these are management companies. 3 They do everything from A to Z. 4 Q. Do they file tax returns for each 5 of the entities? 6 A. No, they do not. 7 Q. Who does that? 8 A. JEB Management, my father and I. 9 Unfortunately, that's where the problem started. 10 So in 2013, I found out that the tax returns 11 were being written as my father as 100 percent 12 owner, I challenged the accountant. 13 I said why are you doing this, you 14 knew Mark Gallagher was clearly saying these are 15 the assets. He said I'm sorry, I didn't know. 16 From now on going forward, we're going to 17 correct it. 18 I said I don't want to do it going 19 forward. Now it's 2013, tax returns have to be 20 filed. I want to file it the correct way. 21 He said no, I can't do that, I've 22 already done, it's done and I can't change it 23 and the next year we're going to do it the way 24 you want it. 25 I said I don't want to file</p>

<p style="text-align: right;">Page 50</p> <p>1 Ruben Elberg 2 anything for 2013. I wrote him a letter from my 3 lawyer not to file those returns as a mistake in 4 the past. 5 And my lawyer asked him, he had 6 claimed that Jacob Elberg had given him 7 authority for E-filing, and my lawyer asked him 8 to give him the E-filing notices for Spindle, 9 Merill and Jerub that Jacob owns 100 percent, 10 and he could not deliver on his words, whatever 11 he said that Jacob gave him that authority and 12 direction. 13 So I believe he never got that 14 authority from my father. My father never 15 claimed those assets to be his. He signed 16 papers to the contrary of what my sister is 17 claiming, and I just don't understand what I'm 18 facing these challenges with. But I'm trying to 19 work this through with the legal system. It's 20 very costly and time consuming. 21 Q. Joseph Elberg, Josef Elberg, he's 22 in Los Angeles? 23 A. Yes, he was sent by the Yashiva as 24 an emissary. So that expense, there is no 25 tuition there on my part, and even his travel</p>	<p style="text-align: right;">Page 52</p> <p>1 Ruben Elberg 2 anything. His expenses were being paid by the 3 Yashiva. 4 Q. You say Mandel is married? 5 A. Yes. 6 Q. He's living elsewhere in Crown 7 Heights? 8 A. Yes. 9 Q. Miriam lives at home with you? 10 A. Yes. 11 Q. She's a teacher? 12 A. Yes. 13 Q. She gets paid for that? 14 A. Yes. 15 Q. Does she use that money to support 16 you and your children? 17 A. Yes, she helps us. 18 Q. Your other children? 19 A. Yes, she helps us a little. 20 Q. And Shterna? 21 A. Shterna is married. 22 Q. She lives elsewhere? 23 A. She lives elsewhere. 24 Q. Dina is married and lives 25 elsewhere?</p>
<p style="text-align: right;">Page 51</p> <p>1 Ruben Elberg 2 expenses is paid by the Yashiva because he is 3 sitting in a hall, and he's basically helping 4 younger students with their learning process. 5 Q. Does he get paid for that? 6 A. No. 7 Q. But his expenses are covered. He's 8 coming back you said from LA? 9 A. Yes. 10 Q. Is he going to continue to work in 11 that role where he gets his expenses covered? 12 A. Probably, probably. He's just 13 finishing his rabbinical ordination. 14 Q. What about David Elberg? 15 A. David Elberg is finishing, he's 16 also finished his rabbinical ordination, and 17 he's going to be starting out on his life now. 18 He's going to start. 19 Q. He's been in the Yashiva for the 20 last two to three years? 21 A. Yes. 22 Q. Who's been paying for that? 23 A. He had the same circumstances like 24 Josef where he was an emissary for the last two, 25 three years in Yeshivas, and he was not paying</p>	<p style="text-align: right;">Page 53</p> <p>1 Ruben Elberg 2 A. Yes. 3 Q. Tzipora is married and lives at 4 home? 5 A. Yes. 6 Q. She's also a teacher? 7 A. Yes. 8 Q. She gets paid for doing that? 9 A. Yes. 10 Q. Does she use part of that income to 11 support you and your other children? 12 A. Yes. 13 Q. You said your wife works? 14 A. She's a teacher. 15 Q. She gets paid for that? 16 A. Yes. 17 Q. How much? 18 A. Less than 2,000 a month, around 19 that range. 20 Q. Where does she work? 21 A. Beth Rifka schools in Crown 22 Heights. 23 Q. How long has she worked at that 24 school? 25 A. The past year.</p>

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<p style="text-align: right;">Page 54</p> <p>1 Ruben Elberg 2 Q. So that's a new job? 3 A. She did part-time work before and, 4 you know, recently we needed the income so she 5 went out and started working. 6 Q. You said it's \$2,000 a month? 7 A. Approximately. 8 Q. What about you, do you work? 9 A. No, I do not. 10 Q. You don't have a job? 11 A. No, I do not. 12 Q. What are your monthly expenses for 13 you and all your children you support? 14 A. I have rent which is about, it's 15 not rent, I apologize, it's a mortgage. I have 16 a \$400,000 mortgage on the house, and that's 17 about \$2,600 per month for mortgage. I have 18 electric, gas, you know, basic household 19 expenses, another five, \$600 a month, 20 approximately. 21 Q. And you need food? 22 A. We have food stamps. 23 Q. You qualify for food stamps? 24 A. Yes. 25 Q. Have you ever had a job?</p>	<p style="text-align: right;">Page 56</p> <p>1 Ruben Elberg 2 Q. Go ahead, so you managed the 3 restaurant, is that what you did? 4 A. I was a partner in one of the 5 restaurants. 6 Q. Did you actually manage it? 7 A. Yes, I worked there day to day. 8 Q. Go ahead, any other jobs? 9 A. In 2001 roughly we started 10 diversifying into real estate, trying to find 11 investment opportunities in real estate, and 12 tried to build a portfolio in real estate. 13 Q. You managed that? 14 A. My father and myself. 15 Q. You said you were managing, what 16 were you managing? 17 A. I was finding the assets, doing all 18 the approvals that were needed, if it was a 19 development site, raising capital, everything 20 that needed to be done day-to-day to bring the 21 project to fruition I was handling. 22 Q. Any other jobs? 23 A. No. 24 Q. Have you attempted to go back to 25 work as a gemologist?</p>
<p style="text-align: right;">Page 55</p> <p>1 Ruben Elberg 2 A. Yes. 3 Q. What jobs have you had? 4 A. I worked in the beginning of my 5 career, I was a gemologist and mineralogist. I 6 worked in the diamond district as a gemologist. 7 Q. Do you have some certification in 8 that area? 9 A. I'm a certified gemologist. 10 Q. Okay, go ahead. 11 A. Thereafter I worked five years with 12 my father in the taxi industry. 13 Q. In the taxi industry? 14 A. Managing the day-to-day operations 15 of the medallions. It wasn't always leased to 16 third parties like it is now. 17 Q. Any other jobs you've had? 18 A. I had a restaurant at one time. 19 Q. You owned a restaurant? 20 A. Yes. 21 Q. When was that? 22 A. '93 to 2000. 23 Q. You sold that business? 24 A. We got out of the business. It was 25 not profitable.</p>	<p style="text-align: right;">Page 57</p> <p>1 Ruben Elberg 2 A. I've looked into it, and all the 3 people in the diamond industry are telling me 4 don't waste your time, this is not an industry 5 that you want to go back into. 6 Q. Have you looked for a job in any 7 way recently in the last couple of years? 8 A. I'm contemplating going into 9 brokerage because I do know the real estate 10 sector very well, and I'm working on getting a 11 license there. I'll see if that succeeds. 12 Q. Is there some kind of course? How 13 do you get a license? 14 A. There are two stages. One is 15 either you're a salesman and then you become a 16 broker, or if you have had or you still have 17 real estate holdings or interests in real estate 18 holdings, you can get a broker's license without 19 having to go through the steps of being a 20 salesman and then going to brokerage. 21 Q. Where are you in that process? 22 A. In the beginning stages. 23 Q. Have you gotten any income from the 24 real estate business other than when you were 25 working with your father?</p>

<p style="text-align: right;">Page 58</p> <p>1 Ruben Elberg 2 A. No. 3 MR. FORSTOT: We've gone about an 4 hour or so. Do you want to take a 5 five-minute break? 6 MR. McCARTHY: That's fine. 7 (A recess was taken.) 8 (Subpoena duces tecum was hereby 9 marked as Plaintiff's Exhibit 3 for 10 identification, as of this date.) 11 A. Weiling Management. 12 Q. Weiling, how do you spell that? 13 A. W-E-I-L-I-N-G, Management and the 14 principals are Rod and Steve Newman. I'm having 15 a problem with Napersay Management. 16 I'll tell you what it is. My 17 sister negotiated the deal terms with Napersay 18 Management, and that was negotiated at \$2,500 19 per month, and all the funds were supposed to go 20 into the Jerub account at Capital One. 21 Only a small portion, a third of 22 those funds are going into the mutual account 23 that my mother and I have, and the balance of 24 the money she redirected into another account 25 that I have no understanding or knowledge of</p>	<p style="text-align: right;">Page 60</p> <p>1 Ruben Elberg 2 Q. You used the name Pewzner, and 3 that's your sister? 4 A. Tamara Pewzner, she's my 5 co-executor. 6 Q. And your sister? 7 A. Yes. 8 Q. I just want to clarify something. 9 Earlier I had asked you how much of the \$250,000 10 was left, still available to you, and you said 11 about \$4,000. 12 Now I just want to make sure I get 13 the whole \$350,000 amount that you borrowed. 14 How much of that whole amount is left and 15 available to you somewhere? 16 A. \$4,000. 17 Q. So it's the same 4,000? 18 A. Yes. 19 Q. So out of \$350,000, 346,000 is out 20 the door, being used to do something? 21 A. Yes. 22 Q. Being used to pay legal fees and 23 other things you testified about? 24 A. Yes, yes. 25 Q. Your deposition was originally</p>
<p style="text-align: right;">Page 59</p> <p>1 Ruben Elberg 2 where it is. 3 That is moneys that belong to 4 Jerub, and I have personal liabilities, as I see 5 her here, being challenged by Capital One. 6 I just don't have the means to 7 litigate about every little thing with 8 everybody, you know what I mean. But I want to 9 be clear that there are funds that are being 10 diverted by Pewzner from Jerub that I have no 11 knowledge of where it's going. 12 So the full 2,500 that the lease 13 agreement was agreed to is not being deposited 14 into the account, and I don't know where the 15 money is going. 16 Q. How do you know that it's being 17 diverted? 18 A. Because I looked at the account and 19 I see the amount that's being deposited, and 20 it's not the full amount that we're supposed to 21 get. 22 Q. Do you see money going out of the 23 account? 24 A. I just don't see the money coming 25 in.</p>	<p style="text-align: right;">Page 61</p> <p>1 Ruben Elberg 2 noticed for a subpoena of March 7th and you 3 didn't show up. Why didn't you show up? 4 A. I had counsel communicating -- 5 MR. McCARTHY: Sorry, I don't want 6 him to disclose any communications he had 7 between his counsel and himself. Other 8 than conversations, please do not state any 9 communications you had with counsel. 10 THE WITNESS: All right. 11 A. There was a demand that was sent to 12 me, the response was supposed to be 2107, not 13 2017. So the year was 2107, I don't know if it 14 was on the deposition or one of the other 15 documents that you requested some response on 16 it. The date was 100 years later, so I just 17 didn't think it was timely. 18 You weren't asking me to come at a 19 certain time and date. I don't remember which 20 one of those documents was there, and I was not 21 ready for whatever reason and I'm here now. 22 Q. It's your testimony under oath, 23 sir, that because the date was 2107, you didn't 24 have to comply with the subpoena for 100 years? 25 A. No, that's not my testimony.</p>

16 (Pages 58 - 61)

<p style="text-align: right;">Page 62</p> <p>1 Ruben Elberg 2 Q. So the date had nothing to do with 3 it, did it -- 4 MR. McCARTHY: Objection. 5 Q. -- why you didn't show up? 6 MR. McCARTHY: Objection. 7 Q. Is that right? You can answer. 8 A. I have nothing else to add. 9 Q. Let me ask you once again. Why 10 didn't you show up on March 7th, what was the 11 reason? 12 A. I misunderstood the document. I 13 really didn't understand that I had to come on a 14 certain date for some reason. 15 Q. We've already had two exhibits 16 marked when you didn't show up, so we're going 17 in sequence. This is Plaintiff's Exhibit 3, 18 that's why it's 3 and not starting with 1. 19 MR. FORSTOT: Do you have a copy 20 for counsel? 21 MR. McCARTHY: I'll take it. 22 Q. Exhibit 3 is a subpoena you were 23 served with in this matter, and it requested 24 that you produce documents. Do you see that 25 document in front of you? Take your time and</p>	<p style="text-align: right;">Page 64</p> <p>1 Ruben Elberg 2 "Now, therefore, we command you to produce 3 for examination on February 27, 2107, at 4 12:00 p.m., at the offices of Troutman 5 Sanders LLP, 875 Third Avenue, New York, 6 New York 10022." 7 I just want the record to be clear, 8 and I also want the record to reflect at 9 this time that I've not been provided with 10 copies of Exhibits 1 or 2. I would ask if 11 I could see them. 12 Q. Anyway, you see where I'm talking 13 about, the tax returns, do you see that? 14 A. Please refer to the paragraph, 15 clarify what you're asking. 16 Q. Number 1 at the bottom of the first 17 page. Tell me when you're there. Are you 18 there? 19 A. I'm reading. Could I have a 20 moment, please. 21 Q. Let me know when you're done. Have 22 you read Number 1? You're on the second page. 23 A. Yes, I have. 24 Q. You understand it says tax returns, 25 federal and state for the years 2012 through</p>
<p style="text-align: right;">Page 63</p> <p>1 Ruben Elberg 2 look at it. Have you looked at it? 3 A. Yes. 4 Q. And the date's right on that one, 5 right? 6 A. No, that's the one 2107. 7 Q. But you understood that that was 8 just a typo, correct? 9 A. No. 10 Q. You really didn't? 11 A. I understood what it said here. 12 Q. I'm sorry? 13 A. I understood what it said here. 14 Q. Did you read that you were supposed 15 to produce documents, did you understand that 16 part? 17 A. I read this document, yes, I did. 18 Q. Now, let's go through this. First, 19 tax returns, federal and state for the years 20 2012 through 2015 and 2016 if available, do you 21 see that? 22 MR. McCARTHY: I just want to, I 23 know it's part of the record, but I just 24 want to ask, the paragraph you're reading 25 from starts with a sentence that says:</p>	<p style="text-align: right;">Page 65</p> <p>1 Ruben Elberg 2 2015 and 2016 if available, correct? 3 A. Yes. 4 Q. Did you produce your tax returns? 5 A. I believe I've supplied one tax 6 return for 2012. 7 Q. You produced it in response to this 8 subpoena? 9 A. I don't know if it was this 10 subpoena or some other subpoena, but I supplied 11 it. 12 Q. Why else would you have supplied 13 it? 14 A. Again -- 15 Q. You supplied a tax return in 16 response to this subpoena; is that right or not? 17 A. I don't know if it was to this 18 subpoena. But I had discussions, again, I don't 19 want to get into my discussions with my legal 20 counsel, and I gave whatever I had available. 21 Q. You didn't think you had to wait 22 100 years for that? 23 A. (No verbal response.) 24 Q. You didn't think you had to wait 25 100 years for that, right?</p>

<p style="text-align: right;">Page 66</p> <p>1 Ruben Elberg 2 A. I supplied what I had. 3 Q. Which was a tax return for 2012? 4 A. Yes. 5 Q. What about 2013, where is that tax 6 return? 7 A. We spoke before that I didn't, I 8 don't know if I mentioned it, that I did not 9 file starting 2013 because there was a problem 10 with my accountant not giving me the proper 11 documentation to file the tax returns. 12 So when I wanted to file 2013, I 13 needed the K-1s for three corporations that I 14 had interests in, and he said he already had 15 filed it. I told him I wanted it corrected, and 16 he would not cooperate. 17 So at that point I didn't want to 18 file tax returns saying when I found out that 19 there was a problem with his filing, I didn't 20 want to continue filing with a mistaken filing 21 that my father, he claims my father guided him 22 to file in the past, Fred Roth claims he guided 23 him to file in the past. So 2013 on, I have not 24 filed anything. 25 Q. No federal tax returns?</p>	<p style="text-align: right;">Page 68</p> <p>1 Ruben Elberg 2 A. My wife did not work, she started 3 working the last year now. 4 Q. In 2017? 5 A. 2016. 6 Q. How much income did she make in 7 2016? 8 A. She went to an accountant. She's 9 dealing with that. I don't know exactly what's 10 with her, if she's going to be filing alone or 11 what's the situation with that. 12 Q. Before that, you filed joint 13 returns with your wife? 14 A. Yes. 15 Q. You got an extension from both the 16 State of New York and the federal government to 17 file your 2013 and 2014 taxes? 18 A. I got a 2013 extension, but not the 19 years after. 20 Q. When was the 2013 extension until? 21 A. I don't have the date, I don't 22 remember. 23 Q. Is it still extant? 24 A. No, it's not. 25 Q. You just didn't file a tax return?</p>
<p style="text-align: right;">Page 67</p> <p>1 Ruben Elberg 2 A. Nothing. 3 Q. No state tax returns? 4 A. Nothing. 5 Q. Because of that reason? 6 A. I just wanted to clarify when I 7 file, I want to file it properly. There is a 8 dispute about these corporations and all the 9 income. I don't know how to file, who is the 10 income to if it's not going to be decided in my 11 favor or not. I don't know exactly what's going 12 on, and I did not file based on that. 13 Q. Is there any other reason you 14 haven't filed tax returns for 2013, '14, '15 or 15 '16? 16 A. '14, '15 and '16, there was no 17 income, I had no income, so I had really nothing 18 to file, I wasn't working. But '13 to '14, I 19 had what to file, you know, and this was the 20 correction that I needed done, and my only 21 accountant would not cooperate to do whatever 22 was right. 23 Q. '14, '15 and '16 you had no income? 24 A. I haven't worked. 25 Q. Your wife didn't work in 2016?</p>	<p style="text-align: right;">Page 69</p> <p>1 Ruben Elberg 2 A. I did not file it yet, no. 3 Q. And 2014, did you get an extension 4 for that? 5 A. There was nothing to file in those 6 years, I had no income to file. 7 Q. Number 2 on Page 2, records of all 8 banks accounts owned by you for the years 2012 9 to date. So have you produced all bank accounts 10 from 2012 to date? 11 A. Yes, I gave whatever I had. 12 Q. For all bank accounts? 13 A. What do you mean all bank accounts? 14 Q. All bank accounts opened by you. 15 A. Personal, are you talking about 16 personal? 17 Q. Anything in your name. 18 A. In my name personally, yes. 19 Q. In any way, I don't care. 20 A. Yes. 21 Q. You have? 22 A. Yes. 23 Q. How many did you produce? 24 A. Whatever I had, I produced. 25 Q. Do you know?</p>

<p style="text-align: right;">Page 70</p> <p>1 Ruben Elberg 2 A. Please clarify what you're asking. 3 Q. How many statements did you produce 4 for how many months for how many accounts? 5 A. I don't remember the amounts of 6 statements, but whatever I had, I produced. 7 MR. FORSTOT: That's it? 8 MR. BUCK: That's it. 9 MR. FORSTOT: Mark that as the next 10 exhibit. 11 (Eight pages of Capital One bank 12 statements were hereby marked as 13 Plaintiff's Exhibit 4 for identification, 14 as of this date.) 15 Q. Take a look at Exhibit 4, and let 16 me know when you're done. 17 A. Yes. 18 Q. Are those pages, those are the bank 19 statements you produced, correct? 20 A. It's some of the bank statements. 21 I also submitted, if I'm not mistaken, Capital 22 One accounts possibly for the taxi corporations. 23 If I did not, I have them, and what I described 24 before, there is over \$100,000 in three 25 accounts, I can supply those accounts also.</p>	<p style="text-align: right;">Page 72</p> <p>1 Ruben Elberg 2 A. Yes. 3 Q. What did you do to find all the 4 records at home or ask the bank for your account 5 statements to comply with this subpoena? 6 A. I gave you whatever I had handy and 7 I supplied it. 8 Q. One month from this year, that's 9 what you had, those are the only account 10 statements you have in your house, bank 11 accounts? 12 A. The ones I had recently. 13 Q. That's not my question. Those are 14 the only account statements you have in your 15 house for your bank account, right? 16 A. I have to check what else I have. 17 Q. What did you do to check to make 18 sure you didn't have any others? 19 A. What do you mean what did I do to 20 check? 21 Q. Did you look throughout your house, 22 did you ask somebody else to look, what did you 23 do? 24 A. The ones I had handy, I gave you. 25 Q. When you say handy, what does that</p>
<p style="text-align: right;">Page 71</p> <p>1 Ruben Elberg 2 Q. What period of time are the 3 statements in your hand from? 4 A. January 14th to February 13th. 5 Q. Of what year? 6 A. 2017. 7 Q. For what account? 8 A. Ruben Elberg. 9 Q. It's one account? 10 A. Yes. 11 Q. Do you remember how you testified 12 earlier that it's not a problem to get copies of 13 these accounts, statements, do you remember 14 that, do you remember that? 15 A. Do I remember what? 16 Q. Testifying that it's not a problem 17 for you to get copies of account statements for 18 your accounts. 19 A. Okay. 20 Q. You have them either at home, 21 correct; is that correct? 22 A. I don't know if I have all the 23 records. 24 Q. Or you could easily ask the bank 25 for them, right?</p>	<p style="text-align: right;">Page 73</p> <p>1 Ruben Elberg 2 mean? 3 A. Without having to make a major 4 search. Whatever I had available at that time, 5 I gave you. 6 Q. Did you make any search besides 7 finding whatever you had handy? 8 A. I wouldn't say I made an extensive 9 search, no. 10 Q. Did you ask the bank for any copies 11 of statements from 2012 through today? 12 A. No. 13 Q. Why not? 14 A. I didn't understand that you wanted 15 all the bank accounts from 2012 to now. 16 Q. Look at Page 1, sorry, Page 2, 17 Number 2, records of all bank accounts owned by 18 for the years 2012 to date, do you see that? Is 19 that confusing to you? 20 A. No, it's not. 21 Q. You mentioned a Bank of America 22 account, where are those statements? 23 A. I should have some at home. 24 Q. Why didn't you produce those? 25 A. Because it's a business account.</p>

<p style="text-align: right;">Page 74</p> <p>1 Ruben Elberg 2 Q. Is that in your name? 3 A. It's a business name. 4 Q. Any other accounts besides the 5 account you produced one month's statement for 6 and the Bank of America account that you have 7 any control over? 8 A. No, I don't have any other moneys 9 elsewhere in any other bank.</p> <p>10 MR. McCARTHY: Can I just make one 11 clarification and I'll just say, Exhibit 4 12 speaks for itself, and the number of months 13 that are covered within the bank account 14 statements.</p> <p>15 I think the testimony for the 16 questioning has been one month, but I 17 believe there are multiple months.</p> <p>18 MR. FORSTOT: How many months are 19 there?</p> <p>20 MR. McCARTHY: January 14, 2017 to 21 February 13, 2017, two pages. February 14, 22 2017 to March 13, 2017, two pages. October 23 15, 2015 to November 13, 2015, four pages, 24 and these are all Capital One bank account 25 statements.</p>	<p style="text-align: right;">Page 76</p> <p>1 Ruben Elberg 2 A. So other than my home, there's 3 business interests that I have that I discussed 4 with you before. 5 Q. Any other properties? 6 A. No. 7 Q. You never had an interest in the 8 Crescent Street in Queens property, is that what 9 you own through those?</p> <p>10 A. Yes. 11 Q. Have you had a car since 2012? 12 A. Yes. 13 Q. Do you still have a car? 14 A. Yes. 15 Q. Did you produce ownership documents 16 for owning that car? 17 A. I believe so. I notified -- I 18 could be mistaken, a 2004 Honda Odyssey. 19 Q. You own that, do you pay any loans 20 on that? 21 A. No, no loans. 22 Q. How much is the mortgage, the two 23 mortgages on your house? 24 A. There is one mortgage that is being 25 paid which is \$2,600, and the other mortgage,</p>
<p style="text-align: right;">Page 75</p> <p>1 Ruben Elberg 2 MR. FORSTOT: Thank you. 3 Q. Have you owned any securities since 4 2012? 5 A. No. 6 Q. Any investments in mutual funds, 7 stocks, bonds, anything? 8 A. No. 9 Q. Number 4 on the subpoena, you see 10 that second page there, Number 4, records 11 reflecting the ownership and/or transfer by you 12 of any interest in real property, do you see 13 that? 14 A. Yes. 15 Q. You own your house, correct? 16 A. Yes. 17 Q. You say you own it with your wife; 18 is that right? 19 A. Yes. 20 Q. Since 2012, have you owned any 21 other real estate besides that property? 22 A. I have partnership interests in 23 RORE and RREM, and I have partnership interests 24 in Royal CP and Royal HI. 25 Q. Got it.</p>	<p style="text-align: right;">Page 77</p> <p>1 Ruben Elberg 2 the interest is due when the loan is due. 3 Q. Let me clarify. What I meant is 4 how much is the entire amount of each mortgage. 5 A. There's \$400,000 for, approximately 6 \$400,000 on the first mortgage, and there's 7 another 420,000 roughly by the time it's due on 8 the second mortgage. 9 Q. The second mortgage you told me 10 about, that's from the loans you got in 2016, 11 correct; is that correct? 12 A. Yes. 13 Q. The \$400,000 mortgage -- 14 A. It's 350 plus the interest that is 15 being accrued that's going to be due upon -- 16 Q. That's not my question. The first 17 mortgage, the first lien. 18 A. Approximately 400, 390 maybe, 19 something in that range, 390 to \$400,000, I 20 don't remember exactly. 21 Q. Who holds that mortgage presently? 22 A. Nation Star Mortgage is servicing 23 it. It's probably Wells Fargo, if I'm not 24 mistaken, but I could be wrong. 25 Q. Are you in default on that?</p>

20 (Pages 74 - 77)

<p style="text-align: right;">Page 78</p> <p>1 Ruben Elberg 2 A. No. 3 Q. What's the source of payment of the 4 2,600 you said per month, where do you get the 5 money to pay that? 6 A. My wife works, my daughters help me 7 a little bit, my, one of my other daughters, 8 Shterna had lent me over \$30,000, a substantial 9 amount of money over a period of time to help me 10 pay my mortgage and, you know, some money that I 11 borrowed, if I'm short, completed whatever the 12 balance is. 13 But I didn't want to default on my 14 home. I just don't want my credit to go bad 15 because I've paid Capital One, I've been with 16 Capital One for years. 17 I paid Capital One all along when 18 my father was alive, and I never defaulted on 19 anything, and I never had any bankruptcies or 20 anything in my life. 21 The only thing, when my father 22 passed away and my sister started causing all 23 this trouble, and it's at a point that it's 24 unbearable. So this is what I'm facing right 25 now unfortunately.</p>	<p style="text-align: right;">Page 80</p> <p>1 Ruben Elberg 2 Q. But she transferred title to you? 3 A. What do you mean she transferred 4 title? 5 Q. You owned the house after that. 6 A. No, she did not give me the house. 7 She wanted me to refinance, to refinance to have 8 current payments on the house. 9 Q. You are the hundred percent owner 10 of the house from 2003 to 2016? 11 A. That was not the intent, that was 12 not her intent. She did not give me the house 13 as a gift, no. 14 Q. So when you look at the real estate 15 records, who is the owner from that period of 16 time? 17 A. It was under my name because the 18 mortgage was under my name, but I'm telling you 19 that she never gave me the house as a gift, no. 20 Q. And you only put her name on the 21 title after you had already defaulted to Capital 22 One, correct? 23 A. I don't think so. I corrected the 24 deed. I don't think so, but I can check the 25 record. That was a deed correction clearly.</p>
<p style="text-align: right;">Page 79</p> <p>1 Ruben Elberg 2 Q. You used to own the address, I'm 3 sorry, the property at 1523 President Street in 4 your own name, correct? 5 A. No, it was initially in my wife's 6 name alone when we purchased it. It was in 1999 7 or 2000, we purchased it and it was in my wife's 8 name alone, it was Yocheved Michaelashvilli, it 9 was under her name alone. 10 What happened in 2003, there was 11 some financial difficulties and we had delays in 12 payments on the mortgage, so my wife could not 13 renew the mortgage. So she asked me to put it 14 on my name and put her on the title as well when 15 I get the refinancing done because I had good 16 credit, so I did that. 17 But I never really corrected the 18 deed to add her to the name, and then I added 19 her name because it originally was hers and mine 20 together. 21 Q. You're saying she owned the house? 22 A. Totally, her father gave her the 23 money to buy the house. 24 Q. And she gave it to you in 2003? 25 A. 2003 I refinanced it, yes.</p>	<p style="text-align: right;">Page 81</p> <p>1 Ruben Elberg 2 Q. When did you do that? 3 A. I don't remember the date. I have 4 to check. 5 Q. In fact, it was in September of 6 2016, wasn't it? 7 A. Again, I can't tell you the date. 8 If you have the date, then you know for sure. I 9 can't tell you, I would have to check. 10 Q. Do you know how much the house is 11 appraised for, how much you could sell it for? 12 A. No. 13 Q. Do you think you have equity over 14 and above the two mortgages in the house? 15 A. I don't know. I would have to 16 check. 17 Q. Sorry, when were the financial 18 troubles that you said your wife had or there 19 were financial troubles, I forgot how you put 20 it, that caused her to transfer the title to 21 you? 22 A. It was 2003, 2004, I don't remember 23 exactly. 24 Q. When did the financial troubles 25 end, if they did, that allowed you to put her</p>

<p>1 Ruben Elberg 2 name back on? 3 A. I don't understand the question, 4 why are you insinuating I had financial 5 troubles? 6 Q. Why did you transfer -- maybe I 7 misunderstood your testimony. Why did she 8 transfer the title from her name to your name, 9 why did that happen? 10 A. She had late payments on the 11 mortgage, and basically we wanted to refinance 12 the house because I don't know if the payment 13 was coming due or I don't know exactly. I don't 14 remember the reason why. 15 And when she tried to get the 16 refinancing, she did not have the proper income 17 or information, so she asked me to put it on my 18 name and put her on and refinance because I had 19 better credit. 20 Q. When you say add her on, what does 21 that mean? 22 A. To put her together with me. 23 Q. On what? 24 A. On the deed. 25 Q. But you didn't do that?</p>	<p>Page 82</p> <p>1 Ruben Elberg 2 Q. And on Page 3 of this document, you 3 list the President Street address, correct? 4 A. Yes. 5 Q. And you list it as 100 percent 6 owned by you, right? 7 A. That's an error. 8 Q. But you list it as 100 percent 9 owned by you, correct? 10 A. I didn't fill this out. 11 Q. You signed this document, right? 12 A. Yes. 13 Q. You wouldn't have signed a document 14 you thought was incorrect, would you? 15 A. I didn't notice this. This is an 16 error. 17 Q. The purpose of that financial 18 statement was what? 19 A. We were trying to get financing for 20 Royal HI Hotel Holdings LP. 21 Q. Who is we? 22 A. My father, Jacob Elberg and I. 23 Q. So looking at the same page on that 24 personal financial statement, you have the value 25 of your house as 900,000, right?</p>
<p>1 Ruben Elberg 2 A. I did not do that, I failed, yes. 3 Q. For quite awhile, years? 4 A. Whatever time, but I corrected it. 5 In my mind, I corrected it. When the time came, 6 I corrected it. 7 Q. You didn't think about it? 8 A. There was no need for it. I don't 9 remember what was the reason why, but I failed 10 to do whatever she had asked me, and I put her 11 back on. 12 MR. FORSTOT: Mark that. 13 (Alma Bank Personal Financial 14 Statement was hereby marked as Plaintiff's 15 Exhibit 5 for identification, as of this 16 date.) 17 Q. Here's Exhibit 5. Why don't you 18 look at that and let me know when you're done. 19 A. Yes. 20 Q. This is a personal financial 21 statement that you gave to Alma Bank in 2012, 22 correct; is that correct? 23 A. Yes. 24 Q. You signed it, right? 25 A. Yes.</p>	<p>Page 83</p> <p>1 Ruben Elberg 2 A. Yes. 3 Q. Again, it says 100 percent owned by 4 you, correct, that's what it does say, right? 5 A. It's an error. I didn't fill this 6 out. I signed it hoping that whatever the 7 office manager filled out was correct, but it 8 seems that she made an error. She actually 9 never asked me that question. 10 (Capital One Bank Personal 11 Financial Statement was hereby marked as 12 Plaintiff's Exhibit 6 for identification, 13 as of this date.) 14 Q. Here's Exhibit 6. Take a look at 15 that. 16 A. Yes. 17 Q. This is also a personal financial 18 statement from you, correct? 19 A. Yes. 20 Q. That's your handwriting? 21 A. No, Mark Gallagher's handwriting, 22 Capital One's handwriting. 23 Q. You signed it? 24 A. Yes. 25 Q. Mark Gallagher's handwriting. Who</p>

22 (Pages 82 - 85)

<p style="text-align: right;">Page 86</p> <p>1 Ruben Elberg 2 is Mark Gallagher again? 3 A. Capital One Bank's lawyer. 4 Q. Why would he fill this out with all 5 this information, how did he get that 6 information? 7 A. I don't remember if Brenda gave it 8 to him, our office manager or I did. The same 9 person that filled this out probably gave him 10 this information. 11 Q. This is 2013, correct? 12 A. Yes. 13 Q. The year after the last one we just 14 looked at, right? 15 A. Yes. 16 Q. You signed it? 17 A. Yes. 18 Q. And on here it's got the \$900,000 19 real estate value, right? 20 A. Yes. 21 Q. That's your house? 22 A. Yes. 23 Q. That's not half your house, that's 24 the entire house, right? 25 A. Again, it was in my name so I</p>	<p style="text-align: right;">Page 88</p> <p>1 Ruben Elberg 2 A. I remember when someone asks me 3 about my home ownership, yes, she did not ask 4 me. I don't remember her asking me, honestly. 5 (Wilshire State Bank Personal 6 Financial Statement was hereby marked as 7 Plaintiff's Exhibit 7 for identification, 8 as of this date.) 9 (Capital One Bank Personal 10 Financial Statement was hereby marked as 11 Plaintiff's Exhibit 8 for identification, 12 as of this date.) 13 Q. Just look at 7 and 8 also, they are 14 both financial statements. Let me know when 15 you're finished. 16 A. Yes. 17 Q. Each one of those you signed, 18 correct; is that right? 19 A. Yes. 20 Q. And they also list your real 21 property value at 900,000, correct? 22 A. Yes. 23 Q. Those are references to your house, 24 correct? 25 A. Yes.</p>
<p style="text-align: right;">Page 87</p> <p>1 Ruben Elberg 2 listed it as a home that I own, but it wasn't 3 all mine. And I don't know that I had to add my 4 wife to this personal financial statement to 5 show her interest in the house. I was not aware 6 of that information. 7 Q. In fact, you filled out a number of 8 personal financial statements where you list the 9 value of your house as \$900,000, and you never 10 once mention anything about your wife's 11 interest, do you? 12 A. I didn't think that I had to, you 13 know, outline that information here. What 14 Brenda wrote is definitely a mistake. I did not 15 tell her to put in 100 percent owned by me, and 16 here -- 17 Q. Why would she have done that then? 18 A. I don't know. 19 Q. She guessed? 20 A. She guessed, I guess. 21 Q. She didn't ask if you and your wife 22 owned it? 23 A. She did not ask me, no. 24 Q. How do you know, do you recall the 25 conversations from 2012?</p>	<p style="text-align: right;">Page 89</p> <p>1 Ruben Elberg 2 Q. There's nothing in there that says 3 anything about your wife's interest in the 4 house, right? 5 A. No, but it was solely owned by her. 6 Q. Now it's solely owned by her? 7 A. It was solely owned by her in the 8 beginning. 9 Q. But she transferred it to you, 10 right? 11 A. She transferred, as I explained, it 12 was done for refinancing. 13 Q. It may have been for a purpose, but 14 she transferred the title to you, is that right 15 or not? You don't know, do you? 16 A. That was not her intent, to give 17 the house to me, if that's what you're 18 insinuating. 19 Q. I'm not asking her intent. Did she 20 transfer the title of the house to you? 21 A. Not really, no. She allowed me to 22 refinance the house, but she didn't mean to give 23 me the house as a gift, no. 24 Q. You're under oath. Is it your 25 testimony that the title, the name on the deed</p>

23 (Pages 86 - 89)

<p style="text-align: right;">Page 90</p> <p>1 Ruben Elberg 2 for your house was never solely in your name? 3 A. No, that's not my testimony. 4 Q. What is your testimony, was it ever 5 solely in your name? 6 A. Yes, there was a period of time it 7 was solely in my name. 8 Q. And before that, it was solely in 9 your wife's name, is that what you're saying? 10 A. Yes. 11 Q. So she transferred on the deed at 12 least, whatever her intent, I'm not asking you 13 about that, she transferred it solely to your 14 name, correct? 15 A. That's what your understanding is, 16 yes. 17 Q. How did your name get on the deed 18 all by itself if not from her? 19 A. I did not buy the house from her. 20 I did not pay her to give, put the house in my 21 name. I did not pay her a penny, you can prove 22 that there's no transaction of funds. 23 Q. She transferred it to you during 24 times of financial problems that she was having; 25 is that right?</p>	<p style="text-align: right;">Page 92</p> <p>1 Ruben Elberg 2 one that says you're the hundred percent owner; 3 is that correct? 4 A. That was in error. I did not type 5 that in. 6 Q. You also signed other financial 7 statements that we've seen that are exhibits 8 here that has the value of the house at \$900,000 9 listed, right, that you gave to banks to show 10 your assets, correct? 11 A. Yes, those are financial 12 statements, yes. 13 Q. And you didn't say anything about 14 that you owned it jointly with your wife, 15 correct? 16 A. I didn't think that was part of the 17 discussion. 18 Q. Why is your name on the deed if 19 it's her house and she owned it and you didn't 20 pay for it, why is your name still on the deed 21 at all? 22 A. Why is my name on the deed? 23 Q. Why didn't you transfer it back to 24 her? 25 A. We own it jointly.</p>
<p style="text-align: right;">Page 91</p> <p>1 Ruben Elberg 2 A. She did not make payments. She 3 could not refinance, so she allowed me to 4 refinance the house, and I was supposed to put 5 her back on the house, I did not. 6 Q. During financial problems with your 7 wife, she transferred the house solely to your 8 name, correct? 9 MR. McCARTHY: I'm going to object. 10 Q. Is that correct or not? 11 MR. McCARTHY: It's a 12 mischaracterization of his testimony. 13 A. I said what I have to say. I don't 14 have anything to add about what transpired, and 15 I'm being clear as to what happened. You're 16 trying to get to something that I don't 17 understand what you're trying to get to. 18 Q. The facts are that she transferred 19 the title on the deed to your name and then -- 20 A. I can't explain. 21 Q. And then in 2016, you put her name 22 back on it; is that correct? 23 A. I did a correction. 24 Q. And in the meantime, you signed 25 financial statements that referred to, at least</p>	<p style="text-align: right;">Page 93</p> <p>1 Ruben Elberg 2 Q. So she did transfer it with the 3 intention to give you title? 4 A. She did not intend that. 5 Q. So I ask you again, why is your 6 name still on there is my question. 7 A. Because we're husband and wife and 8 it's both of our house. 9 Q. Were you husband and wife before 10 she transferred the house to you? 11 A. Yes. 12 Q. How long were you -- when were you 13 married? 14 A. We bought the house in '99. 15 Q. We bought the house? 16 A. I mean, my wife's father gave her 17 the money to buy the house, so together we 18 bought the house in '99. And since then, until 19 2003, my wife had it in her name under Yocheved 20 Michaelashvilli, that's her maiden name. 21 And in 2004, as I told you, there 22 was a time that she did not make payments on 23 time and we needed to refinance, so we did it 24 under my name in order to be able to have a 25 creditworthy borrower.</p>

<p style="text-align: right;">Page 94</p> <p>1 Ruben Elberg 2 MR. McCARTHY: Just one thing, 3 Ruben, just for purposes of this particular 4 question, he asked you when you were 5 married. 6 A. Oh, I apologize. 7 MR. McCARTHY: Can you provide when 8 you got married? 9 A. We got married in 1985, I 10 apologize. 11 Q. Do you have Exhibit 5 still in 12 front of you, the personal financial statement 13 to Alma Bank? 14 A. Yes. 15 Q. Fred Roth is listed as your 16 accountant. Is he still your accountant? 17 A. No, he's not anymore. 18 Q. When did he stop being your 19 accountant? 20 A. In 2013 when he stopped, when I 21 found out he made major mistakes, and I just 22 could not continue with him. 23 Q. Do you have an accountant today? 24 A. No, not yet. 25 Q. Have you had any accountant since</p>	<p style="text-align: right;">Page 96</p> <p>1 Ruben Elberg 2 that? 3 A. Yes. 4 Q. What is that, why did you get 5 \$104,000, what year was that? 6 A. What year is this, this is 2012. 7 Q. Right. So in the 12 months before 8 you signed this, you had \$104,000 in consulting 9 income? 10 A. I was working for JEB Management 11 and running the real estate. Now, the income 12 was for my portion of the cabs above and beyond 13 Jacob's management fees that he was taking. 14 He was running JEB Management, my 15 two and a half cab corporations, and some of 16 that income that was above and beyond our 17 mortgages that we had to pay for, you know, the 18 Capital One mortgages that we had, I was getting 19 the additional funds that was coming from JEB 20 Management. 21 Q. This says it's for consulting. 22 A. There was a portion for like a W-2, 23 a small portion of it, and that was for 24 consulting, but most of the money was coming 25 from the taxicab companies from JEB</p>
<p style="text-align: right;">Page 95</p> <p>1 Ruben Elberg 2 2013? 3 A. No. 4 Q. You filed for the extension 5 yourself? 6 A. No, he did it, and since then he 7 gave me tax returns without the proper 8 information. And once I found out there were 9 mistakes, I didn't want to file it. 10 Q. On Page 2 of that document, it says 11 you have a Citibank checking account with \$5,000 12 in it at that point, do you see that? 13 A. Yes. 14 Q. What became of that account? 15 A. We transferred it to Capital One. 16 We don't have that anymore. 17 Q. Who is we? 18 A. I did. 19 Q. When did you transfer it to Capital 20 One? 21 A. When I opened up at Capital One. I 22 don't remember the date. 23 Q. Do you remember the year? 24 A. No. 25 Q. 104,000 consulting income, you see</p>	<p style="text-align: right;">Page 97</p> <p>1 Ruben Elberg 2 Management. 3 Q. You have, a little higher on the 4 page it says other investments, \$703,000, you 5 see that? 6 A. Yes. 7 Q. What's that? 8 A. I had purchased a ferry boat in N. 9 Minue, Inc., the company I mentioned before, and 10 I paid \$126,000 for that. And originally it was 11 destined to go back into service at Governors 12 Island because it was the former ferry boat for 13 Governors Island, but that got delayed in 14 negotiations with the operator and did not come 15 to fruition. 16 So we were looking for other uses, 17 potentially to do a dockside for a food and 18 beverage operation, restaurant, catering. 19 Q. What was the source of the 20 \$800,000? 21 A. I said I paid 126,000. 22 Q. I'm sorry, you said you paid 23 \$126,000 for it? 24 A. That's what I said. 25 Q. That was your money?</p>

25 (Pages 94 - 97)

<p style="text-align: right;">Page 98</p> <p>1 Ruben Elberg 2 A. That was my money. 3 Q. Where did you get that money? 4 A. It was either 1998, my father and I 5 were thinking of investing in this venture, and 6 my father had refinanced and he had given me the 7 money to invest in this venture at that time. 8 Q. Your father gave it to you? 9 A. He gave it to me, and he was 10 supposed to be a partner in this deal, but for 11 whatever reason, he never came through in doing 12 whatever the original plans were with it. 13 Q. You owned a ferry boat through N. 14 Minue, Inc.? 15 A. Yes. 16 Q. You were the sole shareholder of N. 17 Minue, Inc.? 18 A. Yes. 19 Q. Where did you get the value for the 20 ferry boat for \$703,000 in 2012? 21 A. When there was, you see a ferry 22 boat is like, it's an asset. If you have a use 23 for it and if it has a need, it has a value. If 24 it has no need, it's a liability, right. 25 So at one time there was about 450</p>	<p style="text-align: right;">Page 100</p> <p>1 Ruben Elberg 2 A. No. I wouldn't put any money into 3 it because it's just not productive. Even if I 4 had money, I wouldn't put money into it. 5 Q. Do you own it personally now? 6 A. No, it was purchased in the 7 corporate name. 8 Q. What's the status of that 9 corporation? 10 A. What do you mean? 11 Q. Is it in good standing, is it an 12 operating company? 13 A. There was no income in the company, 14 so there's really nothing happening with it. 15 Q. But it's still an existing 16 corporation? 17 A. I have to check that, if it was, if 18 it was dissolved or it's still an existing 19 corporation. I don't know, I haven't checked it 20 recently. 21 Q. Did you take any steps to dissolve 22 it? 23 A. No. 24 Q. Do you think it may be dissolved 25 for failure to pay some tax or anything?</p>
<p style="text-align: right;">Page 99</p> <p>1 Ruben Elberg 2 or \$500,000 offer from people at Governors 3 Island, the operators of the other vessel, the 4 sister vessel at Governors Island. 5 And for some reason, we were told 6 that it was worth in the \$700,000 range by other 7 people who knew the market. We took basically 8 what we were told by others in the industry, but 9 we had a range of a \$400,000 offer. 10 And now we have no offers, so it's 11 just been sitting, unfortunately rotting away 12 until we get a use service for it. 13 Q. Where is it? 14 A. Staten Island. 15 Q. Do you have to pay any money to 16 keep it up? 17 A. Yes, I owe the dock alone over 18 \$100,000 just in dockage fees. 19 Q. Any other amounts you need to pay 20 to keep it up? 21 A. No. 22 Q. Just dockage fees? 23 A. Yes. 24 Q. There's no maintenance or anything 25 that needs to be done on it?</p>	<p style="text-align: right;">Page 101</p> <p>1 Ruben Elberg 2 A. I don't think so. I didn't have 3 anything that I had to pay that I didn't pay, 4 no. 5 Q. So why do you think it may be 6 dissolved? 7 A. I just don't know. 8 Q. You're the sole shareholder of that 9 company, right? 10 A. Yes. 11 Q. Does the owner of the dock have 12 some kind of lien on the ferry? 13 A. Yes, he owed all this money, so he 14 tells me all the time, the ferry is not worth 15 anything, it's mine practically. He jokes 16 around with me. 17 There's no official lien. We're on 18 friendly terms. He knows when things turn 19 around for me I'll pay him. I don't have any 20 interest in hurting him. When I had money, I 21 paid whatever I could. I've never hurt the man. 22 Q. You never what? 23 A. I never hurt the man. 24 MR. FORSTOT: Why don't we, since 25 lunch has been brought in. We're going for</p>

<p style="text-align: right;">Page 102</p> <p>1 Ruben Elberg 2 about an hour, let's take a break. 3 MR. McCARTHY: Before we go off the 4 record, there's a Social Security number 5 that hasn't been redacted. Whenever we do 6 the final exhibits, can we just redact it 7 for future use? 8 MR. FORSTOT: I guess. All right. 9 You brought your own lunch, I understand. 10 THE WITNESS: Yes. 11 MR. FORSTOT: And you want to grab 12 something? 13 MR. McCARTHY: Sure. 14 MR. FORSTOT: There's a breakout 15 room if you want to sit in there. We can 16 go off the record. 17 (Whereupon at 12:09 p.m. a luncheon 18 recess was taken.) 19 (1040 U.S. Individual Tax Return 20 for 2012 was hereby marked as Plaintiff's 21 Exhibit 9 for identification, as of this 22 date.) 23 AFTERNOON SESSION 24 (Time noted: 12:46 p.m.) 25 Q. Tell me about your education.</p>	<p style="text-align: right;">Page 104</p> <p>1 Ruben Elberg 2 industry. 3 Q. Right, my question was, you said -- 4 MR. McCARTHY: Yeshiva University 5 at Avenue M. 6 A. And East 14th Street. It was 7 called BTA, but it was part of Yeshiva 8 University. 9 Q. What did you study when you were 10 there? 11 A. It's a high school. 12 Q. Oh, it's a high school? 13 A. It's called the Yeshiva University 14 High School. 15 Q. I didn't understand that. Did you 16 graduate? 17 A. No. 18 Q. Did you get a GED? 19 A. I don't think so. I don't have, I 20 didn't need it for what I was doing. 21 Q. How long did you work in the 22 jewelry or gem industry? 23 A. '77 to '88. 24 Q. So 11 years. Did you work at one 25 place?</p>
<p style="text-align: right;">Page 103</p> <p>1 Ruben Elberg 2 A. What specifically would you like to 3 know? 4 Q. Did you go to school? 5 A. Yes. 6 Q. Tell me about where you went, when 7 and for how long? 8 A. Until 13 years old I was, actually, 9 until 11, 1973, so until 12 I was in Russia, and 10 we came here in 1973, approximately. 11 I went to Yeshiva here in Ocean 12 Parkway. Then I went to Yeshiva University on 13 Avenue M thereafter. 14 MR. McCARTHY: Yeshiva University 15 you said? 16 THE WITNESS: Yes. 17 Q. Did you get a degree? 18 A. No. 19 Q. What did you study at Yeshiva 20 University? 21 A. I didn't get a degree. I left to 22 go to 47th Street to start learning gemology and 23 mineralogy to become a gemologist in 1977, early 24 on, you know, in my life. And I became a 25 gemologist and started working in the jewelry</p>	<p style="text-align: right;">Page 105</p> <p>1 Ruben Elberg 2 A. No, initially I worked in 30 West 3 -- I don't remember. EGL, EGL which was 4 European Gem Labs, and I started out being 5 trained as a gemologist, and then I became -- it 6 was an important position there. 7 Q. A what? 8 A. I took an important position there. 9 I was practically managing. 10 Q. Managing what? 11 A. The gem lab. 12 Q. What do they do at a gem lab? 13 A. They examine diamonds and colored 14 stones and they give certifications. 15 Q. When did you leave there? 16 A. So three years, I would say '80, 17 '81. 18 Q. What did you do after that? 19 A. '81 I became, I worked, I had Ruben 20 Elberg Diamond Company. 21 Q. You had your own diamond company? 22 A. I was trying to broker and, you 23 know. 24 Q. How long did you do that for? 25 A. '88, until 1988.</p>

27 (Pages 102 - 105)

<p style="text-align: right;">Page 106</p> <p>1 Ruben Elberg 2 Q. So from '77 through '88, you were 3 in the gem industry. From '77 to '81, you 4 worked for EGL? 5 A. EGL. 6 Q. And then from '81 to '88 you had 7 your own business; is that right? 8 A. Yes, sir. 9 Q. How much was your salary, 10 approximately, when you left EGL? 11 A. I don't remember the details now. 12 Q. Do you have any idea, a vague idea 13 even of how much you were making, do you know 14 how much? 15 A. Is it relevant here in this case? 16 MR. McCARTHY: If you have a 17 recollection. 18 A. I don't have a recollection. 19 Q. For somebody with your experience, 20 how much do you think you could make if you got 21 a job in that area in the gem business today? 22 A. I don't know. I have not been in 23 the industry since '88, so I don't know. 24 Q. Why did you stop being a broker of 25 your own business Ruben Elberg Diamonds, was</p>	<p style="text-align: right;">Page 108</p> <p>1 Ruben Elberg 2 own business, Ruben Elberg Diamonds, how much 3 was your income? 4 A. I don't remember. It was too many 5 years ago. 6 Q. No idea? 7 A. I don't remember it now. 8 Q. A million dollars? 9 A. No. 10 Q. Half a million? 11 A. No, less, less. 12 Q. 10,000, you have no idea? 13 A. It wasn't, it was somewhere in what 14 I was making in 2012 tax return or slightly 15 more, maybe. I can't remember, I can't say that 16 for sure. 17 Q. Do you own any gems today? 18 A. No, I wish I did. 19 Q. Any kind of precious stones or 20 metals at all? 21 A. No. 22 Q. Does your wife? 23 A. No. 24 Q. She doesn't even have a ring? 25 A. An engagement ring, but that's it.</p>
<p style="text-align: right;">Page 107</p> <p>1 Ruben Elberg 2 that what it was called? 3 A. Yes. 4 Q. Why did you stop doing that? 5 A. My father said it's not enough when 6 you help someone with money, I need physical 7 help. So I'm not managing here with the, you 8 know, taxi business, and I need you to come in 9 and help me physically. 10 Because all along, from '77 to '88, 11 I was helping him financially to get started in 12 the yellow cab business, and when anything, 13 either to buy some of these corporations or 14 whether they were, you know, short in his 15 day-to-day operations, because he was always 16 trying to grow, refinance and grow, that was the 17 approach. 18 And he was always short in making 19 payments, so I had income from the diamonds, and 20 I was trying to help as much as I could 21 throughout these years. 22 Q. How much did you make annually if 23 you could estimate from your -- 24 MR. FORSTOT: Let me withdraw that. 25 Q. The last year you worked in your</p>	<p style="text-align: right;">Page 109</p> <p>1 Ruben Elberg 2 Q. Do you have a safe deposit box 3 anywhere? 4 A. No. 5 Q. Does your wife? 6 A. No. 7 Q. Do any of your children have safe 8 deposit boxes that you're aware of? 9 A. No, not that I know of. I should 10 not say that. Not that I know of. 11 Q. This is Exhibit 9. Exhibit 9 is 12 your 2012 tax return, correct? 13 A. Yes. 14 Q. You just referenced that as a way 15 to understand how much you were making when you 16 had your own business. So does that mean you 17 were bringing in roughly \$86,000? 18 A. Maybe more, maybe more in diamonds. 19 I don't remember, I can't tell you for sure. 20 Q. Is this the last tax return you 21 filed? 22 A. Yes. 23 Q. What is the source of the 24 miscellaneous compensation of \$86,000 reflected 25 in this tax return?</p>

28 (Pages 106 - 109)

<p style="text-align: right;">Page 110</p> <p>1 Ruben Elberg 2 A. I told you that JEB Management had 3 income from my cabs, he was giving me 4 distribution from my three cab companies. 5 Q. You said he was giving, who he is? 6 A. My father through JEB Management, 7 because I told you all the moneys were going 8 into JEB Management, and JEB Management was the 9 co-guarantor for these corporations. 10 So all the money was being funneled 11 from the taxi companies into JEB Management, and 12 it was all being distributed, mortgage payments 13 and whatever had to be done. I don't know 14 exactly, I can't tell you for sure how the money 15 was being paid to Capital One. 16 I believe my father was 17 transferring moneys from one account to another. 18 He always had computer transfers that he was 19 always doing, that's how he handled it. 20 Q. Did that amount stay the same, did 21 it vary from year to year? 22 A. It ranged between 80 to \$100,000, 23 in that range, 120 maybe, I don't remember. 24 Q. That has now ended because of what 25 you testified before --</p>	<p style="text-align: right;">Page 112</p> <p>1 Ruben Elberg 2 difference between Surrogate's, is it the same 3 thing? 4 Q. I'm using the wrong term. 5 Surrogate's Court, the court that handles your 6 father's estate. 7 A. Correct. 8 Q. And you're also involved in a 9 litigation in Supreme Court with your sister? 10 A. Yes. Unfortunately, when she took 11 control of these companies -- 12 MR. McCARTHY: I'm going to, Ruben, 13 to move it along, just answer the question 14 that he's asking. 15 A. Just repeat the question. 16 Q. I'm trying to get the lay of the 17 land on how many litigations you're involved 18 with where the issue is who owns the medallion 19 companies and whether you're entitled to a 20 certain percentage interest in the entities that 21 own the real estate where the hotels would be 22 developed. Tell me how many litigations are 23 involved there. 24 A. There is one litigation in the 25 Surrogate's Court or maybe the second one she</p>
<p style="text-align: right;">Page 111</p> <p>1 Ruben Elberg 2 A. Yes. 3 Q. -- the dispute you're having with 4 your sister about whether the estate owns those 5 medallion entities or you do? 6 A. Yes. 7 Q. Just to be clear, is there a court 8 order that says you can't be involved in the 9 management at this point of those companies? 10 A. I don't want to misstate anything, 11 but to my recollection, they said I can act as 12 an executor, but not as a sole decision maker, 13 if I understand correctly the court's 14 recommendation or decision, whatever it was 15 then. 16 Q. The court, meaning the Probate 17 Court? 18 A. Yes, the Probate Court. 19 Q. Let's talk about the litigations 20 then. You're involved in a litigation in 21 Probate Court; is that right? 22 A. I don't know. 23 MR. McCARTHY: Surrogate's Court. 24 Q. Sorry, Surrogate's Court. 25 A. Forgive me, I don't know the</p>	<p style="text-align: right;">Page 113</p> <p>1 Ruben Elberg 2 started to remove me as an executor, that's in 3 the Surrogate's. 4 And then in the Supreme Court, 5 there was one litigation that was not started by 6 me, it was started by the limited partnership 7 partners against me and the LLCs. 8 And there was a decision by Ramos, 9 Judge Ramos to give control to a person that's 10 not a member nor a partner in the limited 11 partnerships, and that's on appeal with Judge 12 Catterson in the First Department. 13 So those are the cases I can point 14 to right now, other than the Capital One 15 judgment that I have that's on a personal 16 guarantee. 17 Q. Right. I'm just talking about the 18 cases where there's, where it may be decided 19 whether you have an interest or not in these 20 entities or whether the estate is the right 21 party, and then whether you have a 40 percent 22 interest as a Class D member of these LLCs, 23 sorry, LLPs. 24 A. I have to clarify that. 25 Q. Sure.</p>

29 (Pages 110 - 113)

<p style="text-align: right;">Page 114</p> <p>1 Ruben Elberg</p> <p>2 A. In the Surrogate's Court, my sister 3 moved for a turnover proceeding. Initially, 4 Jacob was the sole owner of the taxicab 5 corporations and Jacob was also the sole owner 6 of RORE and RREM.</p> <p>7 If you remember when I said before 8 that the yellow cabs that took the loans to 9 RORE, capital contributions or loans to RORE, 10 RORE and RREM are the sole owners of everything. 11 There is no new limited partnerships that I'm 12 going to describe in a second.</p> <p>13 So having said that, she said the 14 Class C interest is all owned by Jacob, there is 15 no 60/40. She claims the same thing in the 16 limited partnership litigation as well.</p> <p>17 So there's documentation, many 18 documents on the level of RORE and RREM, that's 19 where the money actually went, and she actually 20 did not deposit those moneys into the RORE and 21 RREM accounts, she took it to the estate account 22 which is also inappropriate. That was not the 23 intent of the Judge when he gave her that power.</p> <p>24 Q. So in the Probate Court --</p> <p>25 A. It's an LLC litigation about the</p>	<p style="text-align: right;">Page 116</p> <p>1 Ruben Elberg</p> <p>2 executor to pay legal fees to protect the 3 interests of Merill and Spindle. When I started 4 using funds to pay for legal fees, she moved to 5 remove me as an executor for spending moneys 6 that don't belong to me. Those are the 7 litigations in the Surrogate's Court, and that's 8 the status, to my understanding.</p> <p>9 Q. What has to be done to move that 10 forward to a decision? I assume you're anxious 11 to get a decision on that, aren't you?</p> <p>12 A. I am, and I just changed my legal 13 team, and I'm trying to get resolutions on these 14 issues.</p> <p>15 Q. You said you changed your legal 16 team, what do you mean?</p> <p>17 A. I had a single practitioner who was 18 devoted and hard working, but he had limits. He 19 told me, he was a friend --</p> <p>20 MR. McCARTHY: Don't discuss what 21 you discussed with him. Just again, answer 22 the question as was asked.</p> <p>23 Q. So did you replace -- who was the 24 sole practitioner?</p> <p>25 A. Levi Heubner.</p>
<p style="text-align: right;">Page 115</p> <p>1 Ruben Elberg</p> <p>2 LLC ownership.</p> <p>3 Q. In the Probate Court?</p> <p>4 A. In the Surrogate's Court.</p> <p>5 Q. The Surrogate's Court. In the 6 Surrogate's Court, what is the status of the 7 litigation? And what I mean by that, you know, 8 do you have any hearings coming up, is there a 9 trial coming up, how and when is it going to be 10 decided who owned these entities?</p> <p>11 A. Pewzner moved that I should move 12 for a turnover proceeding on these assets. The 13 Judge said that I've shown prima facie evidence 14 of my 40 percent ownership and the taxicab 15 ownership. So she has to come and on law prove 16 why I don't own these interests, and she has not 17 pursued it further.</p> <p>18 But what she had done, she moved 19 then to remove me as an executor for using some 20 of the proceeds from two taxi corporations to 21 pay for legal fees.</p> <p>22 The Judge allowed me to pay, to act 23 as an executor and pay whatever fees are 24 necessary as an executor.</p> <p>25 So I said, I'm using my power as an</p>	<p style="text-align: right;">Page 117</p> <p>1 Ruben Elberg</p> <p>2 Q. You said he's still giving you 3 advice even though he's no longer your counsel 4 on the case; is that right?</p> <p>5 A. I still talk to him because he's a 6 friend, and he might be representing me in other 7 things now.</p> <p>8 Q. Who is representing you now in the 9 Surrogate's Court?</p> <p>10 A. Abrams Fensterman.</p> <p>11 Q. Are there any court dates coming up 12 in that case?</p> <p>13 A. I don't have the records of that in 14 front of me, but there's an appeal and a 15 decision of the judge in Surrogate's Court, and 16 I don't know if that's, how that's going to play 17 out. I'm not sure on the status.</p> <p>18 I'm still in discussions with my 19 legal team how to proceed there, but we just 20 gave an answer on the removal as an executor, we 21 just responded to the documents.</p> <p>22 Q. As of now, you're still an 23 executor?</p> <p>24 A. Yes.</p> <p>25 Q. As of this point, you don't know if</p>

30 (Pages 114 - 117)

<p style="text-align: right;">Page 118</p> <p>1 Ruben Elberg 2 there is some end of sight by date when all this 3 will be resolved in the Surrogate's Court? 4 A. In the Surrogate's Court, it's 5 difficult to say because that looks like a more 6 complicated issue, but that's where all the 7 money is, and that's where she claims that only 8 Class C exists. 9 So whether it's Class C or not, 10 moneys were borrowed from taxi corporations. It 11 was put in the capital contributions into these 12 companies, and it has to be paid back to these 13 taxi corporations. She took it, she didn't even 14 deposit it. 15 She represented in front of Ramos 16 that she was going to put it in escrow, the 17 whole amount of the sale she was going to put in 18 escrow. She didn't do that. 19 She took the money and she put it 20 into three, four different places, I don't know 21 where exactly and how she distributed the money. 22 I don't have the full detailed information. But 23 she did not -- her lawyer made clear 24 representations in front of Judge Ramos that she 25 was going to put it all in escrow until this</p>	<p style="text-align: right;">Page 120</p> <p>1 Ruben Elberg 2 A. I can't discuss our plans right now 3 with our new team, but there are plans to get 4 that resolved sooner rather than later. 5 Q. It's in your interest to get it 6 resolved as soon as possible, right? 7 A. Yes. 8 Q. Because right now you have no 9 income from them? 10 A. You see my position, I'm telling 11 you the truth. 12 Q. You have to, you're under oath. So 13 the issue of who owns or who did own or -- 14 MR. FORSTOT: Let me withdraw that. 15 Q. The issue of whether you were 16 entitled to a 40 percent interest in these 17 entities that own the real estate -- 18 A. The LLCs. 19 Q. The LLCs, LLPs? 20 A. There are two levels. Let's be 21 clear. The LLC is very important because she 22 claims that's the company that owns everything, 23 right, and that's where the money was supposed 24 to go but it didn't go there. It went into an 25 estate account, it went into another account.</p>
<p style="text-align: right;">Page 119</p> <p>1 Ruben Elberg 2 issue is resolved. 3 She paid a substantial amount of 4 money in taxes. She put moneys in escrow with 5 the buyer because the buyer -- the seller, the 6 buyer actually, he feels he's got exposure 7 because the Judge never gave her authority to 8 sell the Class D interests and she sold it 9 anyway. 10 Also, we submitted a dissent letter 11 not to allow her to sell the Class C interest or 12 Class D as a 40 percent interest holder, and she 13 went ahead and did it anyway. 14 Q. Let's put that on hold for a 15 minute. I just want to get back to Surrogate's 16 Court for a second. So in Surrogate's Court, is 17 it your understanding that the issue of who owns 18 the medallion entities we've been talking about 19 today, is that one of the issues that the 20 Surrogate's Court will decide, is being asked to 21 decide? 22 A. She asked them to decide that, yes. 23 Q. As far as you know, there is no 24 date by which that's going to happen, either 25 through an argument on a motion or a trial?</p>	<p style="text-align: right;">Page 121</p> <p>1 Ruben Elberg 2 Q. Understood. Is that also something 3 that the Surrogate's Court is being asked to 4 decide? 5 A. Yes. 6 Q. Is there a date, either through 7 argument or trial, argument on a motion or trial 8 by which that is going to be decided? 9 A. I don't have a clear date, and I 10 don't know. 11 Q. That's also in your interest to get 12 if resolved quickly, right? 13 A. Yes. 14 Q. Although not quite as pressing 15 because it's not the income, it's something in 16 addition to what used to be the income you lived 17 on? 18 A. Correct. 19 Q. So there's also the issue of 20 whether you should be continued as co-executor, 21 right? 22 A. Yes. 23 Q. Are there any other issues that you 24 are aware of that would be decided by the 25 Surrogate's Court?</p>

<p style="text-align: right;">Page 122</p> <p>1 Ruben Elberg 2 A. No. 3 Q. Assuming you lose on all these 4 things and it's decided that the estate is the 5 real owner of the medallion entities and you're 6 not entitled to 40 percent of the proceeds of 7 the sale, you're still a beneficiary of the 8 estate; is that right? 9 A. Yes. 10 Q. That's your understanding? 11 A. Yes. 12 Q. And you would be sharing pro rata 13 with how many people? 14 A. Four. 15 Q. So there is a distribution that you 16 think would be made to you? 17 A. Yes. 18 Q. It doesn't all go to your mother? 19 A. Well, the will was structured in 20 such a manner that the yellow cabs, only the 21 cabs that my father owned goes to my mother. 22 There are two trusts that were 23 created simultaneously, one is a Q-tip trust, 24 and I don't remember the second name, but it's 25 in the will, it's in the papers.</p>	<p style="text-align: right;">Page 124</p> <p>1 Ruben Elberg 2 in the real estate portion of the estate. 3 Q. Because you're one of four? 4 A. Four siblings on Jacob's will. 5 Q. That's supposed to happen, that 6 doesn't have to await your mother passing away? 7 A. It does. 8 Q. It doesn't? 9 A. It does. 10 Q. Oh, it does. So if you lose on 11 everything, you're not going to be entitled to 12 anything until that happens? 13 A. Right. 14 Q. That's your understanding? 15 A. Yes. 16 Q. Now, let's move to the Supreme 17 Court action before Justice Ramos. What, if 18 anything, is still to be decided there? 19 A. There was a decision by Judge Ramos 20 that was decided that Pewzner becomes the 21 manager of the LLCs, the limited partnerships, 22 and she has to do -- he gave her broad rights 23 without admitting in the court, the first thing 24 he said, I didn't read the papers, I thought 25 this was settled.</p>
<p style="text-align: right;">Page 123</p> <p>1 Ruben Elberg 2 The real estate holdings were 3 supposed to be going into trusts, and the income 4 from the real estate, 60 percent interest income 5 of those real estate assets were supposed to go 6 to my mother. And after 120 of hers, goes to 7 the four siblings, the 60 percent is split four 8 ways. 9 Q. After 120, what does that mean? 10 A. After she passes on. I hope she 11 lives for a long time. 12 Q. So you wouldn't actually be 13 entitled to any distribution until after that? 14 A. From the 60 percent interest, no. 15 From the 40 percent interest, definitely right 16 away. 17 Q. Right away, okay. 18 MR. McCARTHY: Are you claiming 19 that the 40 percent interest is within the 20 estate or that you own it personally? 21 THE WITNESS: Personally. 22 Q. The premise of my question is you 23 lose on everything. I'm just trying to find out 24 if you're still entitled to something. 25 A. Yes, there's a 25 percent interest</p>	<p style="text-align: right;">Page 125</p> <p>1 Ruben Elberg 2 And then after 15 minutes of 3 discussions, he just says, you guys are 4 hindering the sale, and he gave her, he signed 5 the order without reading the papers. 6 Q. That was an issue of whether she 7 could go ahead with the sale or not? 8 A. Correct. 9 Q. Is there anything else in that case 10 other than that, any other issue to be decided 11 that you know of? 12 A. That case was brought by Crabapple, 13 Inc. who was an EB-5 capital bundler who sued 14 RORE or RREM for performance to make capital 15 contributions to the limited partnerships that 16 Crabapple invested \$4 million of EB-5 funds 17 brought in from China. 18 There was another lawsuit, there 19 was another \$50 million in another bank trying 20 to build these projects, and those investors 21 wanted us to perform, and Pewzner decided in 22 Jacob's lifetime she was not interested in these 23 projects to go forward. 24 Definitely when he's not here, she 25 had some say. She did everything she could to</p>

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<p style="text-align: right;">Page 126</p> <p>1 Ruben Elberg 2 try to undermine the projects. 3 Q. My question is, is there anything 4 else to be decided on that case other than the 5 issue that has been decided? 6 A. If it's overturned and brought back 7 to Ramos, then this litigation, I guess, would, 8 depending on what the decision is, would go back 9 and be adjudicated either by Ramos or by someone 10 else. 11 Q. Has that been fully briefed up at 12 the Appellate Division? 13 A. Yes. 14 Q. Has there been an argument that's 15 happened? 16 A. It's happened already and we're 17 waiting. 18 Q. When was the argument? 19 A. On the 25th, not last month. I 20 believe it was April 25th maybe. 21 Q. Any other litigation going on that 22 will affect the issue of your ownership in the 23 medallion entities or the LLCs? 24 A. No. I'm sorry, Judge Catterson 25 brought a, I misspoke, I don't know if it's</p>	<p style="text-align: right;">Page 128</p> <p>1 Ruben Elberg 2 accept the service for these nationals, but 3 James Catterson is waiting for a decision in the 4 First Department before he decides whether to go 5 forward with the declaratory judgment or whether 6 it's going to be a different circumstance after 7 it's overturned. 8 Q. I see. So in that case that you 9 brought, there were two separate cases, one in 10 which there's an appeal and then the one you've 11 brought by complaint. One's waiting the appeal 12 outcome, and the other is stayed pending the 13 appeal? 14 A. There's no stay. He wants to see 15 if the appeal is done, then he can make a 16 decision on how to proceed, because it doesn't 17 make sense to pursue it until he gets the final 18 decision in the First Department. 19 Q. Is there anything else, any other 20 litigations where those issues are at issue? 21 A. No, not to my recollection. It's 22 been so overwhelming that if I forget something, 23 forgive me, it's not intentional. 24 Q. Mr. Catterson, what firm is he at? 25 A. He's at Kaye Scholer.</p>
<p style="text-align: right;">Page 127</p> <p>1 Ruben Elberg 2 turnover, declaratory judgment in front of Ramos 3 and the Class D does exist. She claims it does 4 not exist. 5 And the partners, everybody claims 6 it exists except her. She has no knowledge, she 7 is not involved, but she claims it does not 8 exist. 9 Q. That's a lawsuit that you started? 10 A. That's a lawsuit we started with 11 Judge Catterson. 12 Q. What does that mean? 13 A. He is a former judge, I call him 14 Judge Catterson, he is James Catterson. 15 Q. But he's acting as a lawyer? 16 A. He's acting as a lawyer, correct. 17 He went in for a declaratory judgment, and 18 Pewzner and the other party tried to avoid 19 service on the EB-5 investors. 20 So Judge Ramos said you received 21 the benefit in my court in your favor, and now 22 you're trying to say that you're not going to 23 accept the service for these foreign nationals 24 who cannot be found and they're elsewhere. 25 So Judge Ramos forced Crabapple to</p>	<p style="text-align: right;">Page 129</p> <p>1 Ruben Elberg 2 Q. Kaye Scholer, right. Are you able 3 to pay them their fees? 4 MR. McCARTHY: Objection. 5 A. I owe them money. 6 Q. Have you paid them? 7 A. Yes. 8 Q. You've already paid them? 9 A. Yes. 10 Q. You say you owe them. There's an 11 outstanding bill that you owe? 12 A. Yes. 13 Q. Do you know whether they're not 14 going to go forward with your case because of 15 that? 16 MR. McCARTHY: Objection. 17 A. They're going forward, so far 18 they're going forward. 19 Q. Has there been any settlement 20 discussion between you and your sister about the 21 issue of who owns the medallion entities or 22 whether you have an interest in the LLCs? 23 MR. McCARTHY: Objection. 24 A. There have been many discussions. 25 Unfortunately, she was committed to settle</p>

<p style="text-align: right;">Page 130</p> <p>1 Ruben Elberg 2 things, and then she, at the last minute she 3 undermines the deal. Whatever settlement comes, 4 she undermines it. And I've tried at least 5 five, six times. 6 Q. Are there any discussions ongoing 7 now? 8 MR. McCARTHY: Objection. 9 A. No. 10 Q. Other than Capital One and the two 11 mortgage holders on your house, do you have any 12 other creditors, do you owe money to anybody 13 else, you have the Yeshivas, right? 14 A. I have many creditors, I can't even 15 think about them. 16 Q. You have the law firms, who else? 17 A. I have many creditors. I don't 18 have a settled head to remember all the details. 19 Q. Do you have any plans to file 20 bankruptcy? 21 A. No. 22 Q. Have you considered doing so? 23 A. No. 24 Q. Do you have any claims against 25 anybody, any legal claims where you are seeking</p>	<p style="text-align: right;">Page 132</p> <p>1 Ruben Elberg 2 A. No, the EB-5 bundler. 3 Q. Oh, the bundler. 4 A. Who actually worked the deal. 5 Q. Crabapple? 6 A. Crabapple, NYC MRC West Lead 7 Capital. 8 Q. So you think you have claims 9 against them? 10 A. That's for my legal team to decide, 11 but I believe so. 12 Q. Are you going to assert them soon? 13 A. We'll make that decision when we 14 get clarity on what's going on further. 15 Q. How much do you think they owe you 16 or have harmed you by, how much money would you 17 seek from them? 18 A. I don't have that number yet. I 19 have to decide that with my legal team. 20 Q. Any other claims against anybody 21 else that you can think of? 22 A. No. 23 Q. Whether you've asserted them or 24 not. 25 A. No.</p>
<p style="text-align: right;">Page 131</p> <p>1 Ruben Elberg 2 payment from them? I'm not talking about the 3 litigations between you and your sister. I'm 4 talking about whether you have asserted -- well, 5 it could be your sister, where you've asserted 6 that somebody has broken a contract or harmed 7 you in some way where you're suing them? 8 A. No, not yet. 9 MR. McCARTHY: Just to be clear, 10 other than the estate litigation and the 11 litigation against your sister and other 12 entities. 13 THE WITNESS: No, nothing. 14 Q. Well, you could have a claim 15 against your sister if you feel she's harmed 16 you. 17 A. I have not asserted those claims 18 yet. I have many claims, but I have not 19 asserted. 20 Q. Do you have any claims against your 21 sister? 22 A. Against my sister, estate, the EB-5 23 purchasers who are actually inside buyers. 24 Q. Are you saying you have a claim 25 against the EB-5 investors, the people in China?</p>	<p style="text-align: right;">Page 133</p> <p>1 Ruben Elberg 2 Q. Do you have any 401-Ks or IRAs? 3 A. No. 4 Q. Any kind of retirement accounts? 5 A. No. 6 Q. Have you set up any trusts? 7 A. No. 8 Q. Have you transferred any assets 9 that you haven't already talked about today? 10 A. No. 11 MR. McCARTHY: On the prior 12 question, we're not talking about trusts 13 that were created under the estate, we're 14 talking about trusts he personally created? 15 MR. FORSTOT: Yes. 16 A. No. 17 Q. Have you in the last couple of 18 years made any charitable contributions? 19 A. Practically none, very little, if 20 any. I do the best I can, but nothing, nothing 21 much. 22 Q. Have you transferred any assets to 23 any family members in the last, say since 2012 24 that you can recall? 25 A. No.</p>

<p style="text-align: right;">Page 134</p> <p>1 Ruben Elberg 2 Q. Let's look back at the subpoena 3 which is Exhibit 3. Now, there's a list as we 4 started to look at on the second page, starting 5 on the second page or the first page, and it 6 goes on to the second page, you see that? 7 A. Yes, I'm looking. 8 Q. A list of documents. Hold on, let 9 me get my copy. I've got it. Now, we talked 10 about your bank account records. 11 What I want to know is what you 12 did, what you've done or if more needs to be 13 done to be able to find any of these documents. 14 The bank account records you told me you still 15 need to look in your house and to ask the banks 16 for those records, right? 17 A. Yes. 18 Q. What about Number 3, balance sheets 19 or other financial statements reflecting your 20 assets and liabilities. What did you do to find 21 any of those documents? 22 A. I gave you whatever I had, I 23 believe so, but there's nothing else that I have 24 that I can produce. 25 Q. I want to know what did you do, did</p>	<p style="text-align: right;">Page 136</p> <p>1 Ruben Elberg 2 Q. I guess it's subsumed in that, but 3 it's broader than that. 4 A. Well, I don't own anything but what 5 is in Number 5. 6 Q. Okay. 7 A. So I believe those documents you 8 have, and if you don't, I can supply those 9 again. 10 Q. When you looked for records, where 11 did you look for Number 4 or 5? 12 A. Whatever documents I gathered from 13 my business relationship with my father, and I 14 had records in my office of those documents. 15 Q. In your office, where is your 16 office? 17 A. In my home office. I don't have an 18 office now, I have a home office now. I work 19 out of my home. 20 Q. What you did was you looked through 21 your -- 22 A. My documents and I supplied them. 23 Q. You looked through documents in 24 your home office, and did you look on your 25 computer?</p>
<p style="text-align: right;">Page 135</p> <p>1 Ruben Elberg 2 you look in your house, do you have computers 3 that have records? 4 A. Yes, I have a computer. 5 Q. Did you search your computer 6 records? 7 A. I can search further, but financial 8 statements and liabilities prepared for any 9 reason from 2012 to date, I mean, you have some 10 here that you showed us. 11 Q. Let me ask you this, did you go 12 through this list very carefully and make sure 13 you looked for everything that's on this list as 14 best you could? 15 A. I did the best I could to supply 16 you whatever I had. 17 Q. So is there anyplace that you still 18 need to look to find anything in Number 3? 19 A. I don't think so. 20 Q. What about Number 4, records 21 reflecting your ownership or transfer of your 22 interest in real property or interest in any 23 entity which owned real property? 24 A. Other than the assets that are 25 outlined in 5?</p>	<p style="text-align: right;">Page 137</p> <p>1 Ruben Elberg 2 A. Yes. 3 Q. You gave us everything you had 4 there? 5 A. Yes. 6 Q. Number 6, records reflecting the 7 sale of property located at 42-31 and 42-37 8 Crescent Street, is that subsumed in Number 5? 9 A. Yes, she actually made, she took 10 power from Judge Ramos, and she sold everything. 11 So since she got that power, I have no 12 knowledge. 13 I have very little knowledge of 14 anything that she did, whether the sale and 15 transfer of funds, and anything that she did, 16 transferred assets, I have very little records. 17 MR. McCARTHY: Could you clarify 18 who she is. 19 THE WITNESS: Tamara Pewzner. 20 Q. You talked about earlier that she 21 was supposed to set up escrow. 22 A. Yes. 23 Q. Why don't you explain that. 24 A. If you look into the motion five, I 25 believe it was, in front of Judge Ramos, and</p>

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<p style="text-align: right;">Page 138</p> <p>1 Ruben Elberg 2 Pewzner's counsel Mr. Lehman made 3 representations to Judge Ramos that we're not 4 taking this money, we're going to sell this and 5 we're just going to put it in an escrow that's 6 controlled by both of us. 7 And in the merger documents, she 8 outlined it was supposed to go into an escrow 9 account by Chase, JPMorgan Chase. 10 And I checked with JPMorgan Chase, 11 and they have no records of any escrow accounts 12 opened.</p> <p>13 Q. These are the proceeds from the 14 sale of the real property?</p> <p>15 A. Of the real assets, yes, of the 16 limited partnership.</p> <p>17 Q. Was it the real property or the 18 entities?</p> <p>19 A. Of the limited partnerships and of 20 the LLCs which she claimed is the owner of 21 everything.</p> <p>22 Q. That sale is done and closed, 23 right?</p> <p>24 A. She closed on it. She actually did 25 a merger. It's really a sale, but she merged</p>	<p style="text-align: right;">Page 140</p> <p>1 Ruben Elberg 2 whatever, right; is that right? 3 A. So let's start with the limited 4 partnerships where there's a declaratory 5 judgment on the Class D, okay. That's the 6 binding partnership that is in place now and 7 effective. If it does get overturned, that will 8 be the binding partnership.</p> <p>9 There, if the sale happened, first 10 the sale proceeds would be distributed to, there 11 are four classes, Class A, B, C and D. Class A 12 are the EB-5 investors. Class B is the EB-5 13 bundler. Class C was RORE and RREM, and Class D 14 was Ruben Elberg.</p> <p>15 So the first sale that transpired, 16 the funds would have to go into the limited 17 partnerships and then distributed accordingly 18 how I just described.</p> <p>19 Q. When you say the funds, does that 20 mean all proceeds or the net proceeds of the 21 original capital contributions?</p> <p>22 A. All proceeds would go into this 23 company, and this company would pay its 24 liabilities, this limited partnership would pay 25 its liabilities, and then each partner would get</p>
<p style="text-align: right;">Page 139</p> <p>1 Ruben Elberg 2 the entities into a new corp that are called 3 instead of Royal CP Hotel Holdings LP, Royal CP 4 Two Hotel Holdings LP. 5 And instead of Royal HI Hotel 6 Holdings LP, Royal HI Two Hotel Holdings LP. 7 And the same thing, I think she did, Pewzner 8 transferred the interests of the limited 9 liability companies into RORE Two and RREM Two 10 in the merger.</p> <p>11 Q. The estate, when you say she, she 12 was acting on behalf of the estate?</p> <p>13 A. Right.</p> <p>14 Q. The estate doesn't retain any 15 interest in these entities, right?</p> <p>16 A. Not to my knowledge. She was 17 controlling the deal. She might have had side 18 deals, I don't know, I can't say that.</p> <p>19 Q. The proceeds of that were supposed 20 to have been distributed to return the 21 investments made by capital contributions made 22 by the ultimate partners, and then the net 23 proceeds were supposed to be distributed, either 24 to you and your father or to your father after 25 payment of the EB-5 investors and Crabapple,</p>	<p style="text-align: right;">Page 141</p> <p>1 Ruben Elberg 2 their share of the proceeds.</p> <p>3 Q. But that's a net number before the 4 partners get their share, right, it's net of 5 liabilities?</p> <p>6 A. Can you clarify what you're saying?</p> <p>7 Q. I understood that the proceeds that 8 would get distributed to these different classes 9 was net of return of original investments.</p> <p>10 A. Correct.</p> <p>11 Q. Is that correct?</p> <p>12 A. Correct.</p> <p>13 Q. And there may be other liabilities.</p> <p>14 A. Correct, correct.</p> <p>15 Q. So those things have to get paid 16 first?</p> <p>17 A. Yes, that's what I said.</p> <p>18 Q. Then there's a net amount that is 19 disputed to how that gets distributed.</p> <p>20 A. Correct.</p> <p>21 Q. Do you know what that net amount 22 is, the total net amount was?</p> <p>23 A. Well, there were two capital 24 contributions, RORE contributed into Royal CP 25 and Royal HI, and I believe it was about</p>

<p style="text-align: right;">Page 142</p> <p>1 Ruben Elberg 2 \$11,800,000 that RORE and RREM contributed into 3 the limited partnerships, the Class C partner. 4 When those contributions were paid 5 back to RORE and RREM, and the \$4 million 6 invested by the EB-5 Class A partners got paid 7 back, and the interest that was being charged by 8 the Class B partner for bundling these Chinese 9 investors was paid to the Class B partner, 10 right, the profit proceeds were split. 11 If there was a consent on my part 12 to sell my interest, which there was no consent, 13 neither by me nor by Judge Ramos to sell the 14 Class D interest in the limited partnership, 15 then the profits proceeds would be split 60/40 16 between Class C and Class D interest. 17 Q. Understood. My question though is, 18 what is that amount, the total amount, not the 19 60/40, the total amount of net proceeds, the 20 profit proceeds you called them. 21 A. I don't know, I don't know what she 22 did so I can't say for sure. She took power and 23 did whatever she wanted, Pewzner. 24 Q. You have no idea? 25 A. I have no idea what she did.</p>	<p style="text-align: right;">Page 144</p> <p>1 Ruben Elberg 2 sharing interest after the Class C gets paid. 3 Q. Right. 4 A. So the Class C has to get paid 5 first. 6 Q. Sixty percent? 7 A. No, \$11.8 million, and then the 8 profit sharing would be there. 9 Q. So the 27 is not net of all return 10 of capital? 11 A. No. 12 Q. So it really, the profit is, if 27 13 million is correct, you're talking about you're 14 fighting over 16 million roughly; is that right? 15 A. (No verbal response.) 16 Q. You have to answer orally. 17 A. Yes. 18 Q. So the 40 percent would be 40 19 percent of that, what that actual number is? 20 A. Yes, but again, I did not authorize 21 that sale, so I did not consent to that number 22 or that sale. 23 Q. I'm just trying to get an 24 understanding -- 25 A. I don't know what she did. I don't</p>
<p style="text-align: right;">Page 143</p> <p>1 Ruben Elberg 2 Q. 500 million, 50 million, two 3 million? 4 A. I don't know what she did. 5 Q. You don't know the magnitude at 6 all? 7 A. I don't know what she did. I know 8 she claims to have gotten \$27 million. 9 Q. Total? 10 A. Total. 11 Q. And from there, that was used to 12 repay capital contributions and liabilities? 13 A. No. Liabilities and EB-5 investors 14 and, liabilities, EB-5 investors and Class B 15 interests were above and beyond that number. 16 Q. So 27 was the net amount the estate 17 took in? 18 A. That's what I would say. 19 Q. Leaving aside whether that's where 20 it ultimately should go. 21 A. That's what she insinuated in the 22 merger documents and in front of Judge Ramos. 23 Q. So your claim is for 40 percent of 24 that number, whatever that actually is? 25 A. Class D has a 40 percent profit</p>	<p style="text-align: right;">Page 145</p> <p>1 Ruben Elberg 2 want to put myself in a position where I agreed 3 to that number, I did not. 4 Q. I understand. I'm not suggesting 5 you agreed to it. I just want to know the 6 number you're fighting over. 7 You say that you did not, that she 8 sold the Class D interests without your 9 permission, correct? 10 A. Correct. 11 Q. Are you saying that there's an 12 actual document somewhere that says the Class D 13 interest is being sold? 14 A. What the outrageous thing is that, 15 she, Pewzner and the EB-5 bundlers who actually 16 bought out under a third-party corporation, not 17 associated directly with them, they basically 18 claimed they're buying 100 percent of all 19 interests of the limited partnerships. 20 Q. So they just made a general 21 statement without -- 22 A. Without referring to Class D. 23 Q. And you think that was essentially 24 a clever way of making sure they got everything 25 without admitting there was a Class D?</p>

<p style="text-align: right;">Page 146</p> <p>1 Ruben Elberg 2 A. That's what they thought. 3 Q. Okay, so back to where we started 4 this conversation. You said that it was 5 represented to Justice Ramos that that 16 6 million, let's call it -- 7 A. No, they said the total amount, all 8 the 27 million would go into. 9 Q. Are you disputing that the 11 10 million roughly contribution by RORE should not 11 be taken off the top? 12 A. I'm not disputing that. All I'm 13 saying is, since I'm a Class C partner -- I'm a 14 partner in RORE and RREM as well, those moneys 15 are in dispute in the Surrogate's level. 16 Q. But you're not only asking for 40 17 percent for the Class D interest, you're saying 18 that part of the RORE and RREM moneys should 19 also come into play? 20 A. Because that's where actual moneys 21 were put from the taxi corporations to buy the 22 real estate. 23 Q. And so you're actually therefore 24 disputing and claiming part of the 11 million 25 return?</p>	<p style="text-align: right;">Page 148</p> <p>1 Ruben Elberg 2 account holder or the place where the account 3 is? 4 A. It's a corporation. So in order 5 for you to better understand the way the funds 6 transferred from the taxi corporations into the 7 LLCs, and then the LLCs were supposed to put 8 capital contributions to the limited 9 partnerships, so that's what I want to clarify. 10 I think it's important. 11 MR. McCARTHY: To the extent you 12 can, you're writing, to the extent you can, 13 please make it oral so it's in the record. 14 A. So the \$11.8 million, let's just 15 call it \$12 million, were borrowed from the taxi 16 corporations. 2.4 was borrowed from the three 17 corporations that I'm, my judgment is on, 2,450, 18 and the balance was borrowed from my father's 19 corporations. 20 So these moneys were capital 21 contributions to RORE and RREM and to Shefa. 22 And these three companies, there is a chart that 23 outlines exactly these three companies, who owns 24 exactly how much interest in the limited 25 partnerships.</p>
<p style="text-align: right;">Page 147</p> <p>1 Ruben Elberg 2 A. I have to pay back Capital One. 3 Q. That I agree with. 4 A. I'm not hiding here. I'm trying to 5 pay everybody, but I'm facing a problem. 6 Q. Understood. I'm just trying to 7 figure out what you're fighting over and what 8 your claim is. 9 Back again to where we started this 10 discussion. You don't know where those moneys 11 are right now, the \$27 million? 12 A. I have a vague idea. 13 Q. What's the vague idea that you 14 have? 15 A. Well, I'm an executor, so she put 16 some of the moneys in the Chase accounts that is 17 an estate account, and a small portion in a 18 Shefa account, that's another estate account, 19 really it was part of the transaction, but she 20 put it in that account as well. 21 Q. Shefa, what's that? 22 A. Shefa Funding. 23 Q. Shefa Funding? 24 A. Yes, S-H-E-F-A. 25 Q. You're saying that's the name of an</p>	<p style="text-align: right;">Page 149</p> <p>1 Ruben Elberg 2 These companies were supposed to do 3 capital contributions to the limited 4 partnerships. 5 Q. Right. 6 A. So basically, she, Pewzner refused 7 to put it in escrow as she agreed as she 8 represented in front of the Judge, and she put 9 it into an estate account, into a Shefa account. 10 She left about \$5 million with the 11 buyer because the buyer felt they had exposure 12 and they wanted to secure their situation. And 13 she paid about five or \$6 million in taxes, I 14 don't know exactly how much. 15 Q. How do you know all this? 16 A. This is information that I found 17 out through friends who are close. But the two 18 accounts I have access to. 19 Q. Friends that are close to who? 20 A. To the family. 21 Q. All right, so the only accounts you 22 have access to would be the escrow? 23 A. The estate account and Shefa. 24 Those I found going through the bank and finding 25 those.</p>

<p style="text-align: right;">Page 150</p> <p>1 Ruben Elberg 2 Q. Are you a signatory, do you have 3 access to the Shefa account? 4 A. I am a signatory, but I am not 5 allowed to write alone a check from that 6 account. She's actually written it alone, but I 7 cannot myself. 8 Q. Who else? 9 A. Pewzner. 10 Q. Just your sister? 11 A. Yes. 12 Q. The Shefa account, that's not 13 considered an estate account? 14 A. It's part of the estate's assets. 15 Q. Because your father owned Shefa? 16 A. Yes. 17 Q. Did you own Shefa, part of Shefa? 18 A. Shefa had received the moneys from 19 the cab companies, from my refinancing, my 20 father's refinancings, and that money was put 21 into Shefa in order for us to buy a note back 22 from Rosenthal & Rosenthal and to avoid paying 23 double taxes on -- when you borrow money and you 24 pay tax, like two and a quarter or two and 25 three-quarter percent for loans that you take,</p>	<p style="text-align: right;">Page 152</p> <p>1 Ruben Elberg 2 that's your understanding. 3 A. They left it with the buyer. 4 MR. McCARTHY: Were you a party to 5 the sale? 6 THE WITNESS: No, I was not. 7 Q. And the rest? 8 A. I was told she paid some taxes. 9 Q. Do you know if those were estate 10 taxes? 11 A. I don't know what they were for. I 12 was not involved in the transaction so I can't 13 say. I'm just giving you things that I have 14 gotten, you know, really not full. 15 Q. The representation made to Justice 16 Ramos that these would be in escrow, what was 17 supposed to be the terms of the escrow? 18 A. That we were both controlling of 19 those interests, and that once upon a decision 20 came up, that's what the LOI said, that's what 21 the merger document said, then we would 22 distribute it accordingly. But as she did, she 23 did not follow it. 24 Q. Have you gone back to Justice Ramos 25 to complain that that wasn't done?</p>
<p style="text-align: right;">Page 151</p> <p>1 Ruben Elberg 2 there is a tax that you pay when you borrow 3 money. I don't remember exactly. 4 But we tried to avoid that by 5 buying the note back through Shefa by paying 6 double taxes when we borrow money again. 7 Q. Okay. 8 A. It was supposed to be part of the 9 capital contributions, so I actually own the 10 interest of Shefa, but I don't have documents 11 because my father and I trusted each other. We 12 never nickel and dimed each other on paper, we 13 trusted each other. He passed away suddenly and 14 this situation became out of hand. 15 Q. How much money is in the two 16 accounts you do have access to, the estate 17 account and the Shefa account? 18 A. Around 15, \$16 million. 19 Q. The rest is -- 20 A. I don't know. 21 Q. Well, there's five million in the 22 hands of the buyer? 23 A. They gave the buyer. They left 24 that with the buyer. 25 MR. McCARTHY: Just to be clear,</p>	<p style="text-align: right;">Page 153</p> <p>1 Ruben Elberg 2 A. We had mentioned it in front of 3 Justice Ramos in one of our proceedings, and 4 Justice Ramos, it was as if he didn't hear it. 5 She had a former law clerk of 6 Justice Ramos working for her as a lawyer. She 7 brought him on when she saw herself getting into 8 trouble. And she brought in a law clerk, his 9 name is Andrew Tulloch, T-U-L-L-O-C-H, and the 10 Judge trusted his former law clerk to a point 11 where whatever he said, he did for them. 12 Q. Do you have a transcript where a 13 representation was made of the escrow? 14 A. Yes. 15 Q. Has that been shown to Justice 16 Ramos? 17 A. I don't believe it was brought to 18 his attention to show him the transcript, no, 19 but he was told in a hearing. Clearly I 20 remember, I was present at the hearing, that, 21 the hearing after the sale -- I remember now. 22 They tried to discontinue the case, 23 they said that now that everything is sold, they 24 wanted to discontinue the case. 25 We argued against discontinuing the</p>

<p style="text-align: right;">Page 154</p> <p>1 Ruben Elberg 2 case, and one of the things we brought was that 3 escrow was not established, and Judge Ramos did 4 not even pay attention to it. And he 5 discontinued the case, he gave them what they 6 wanted.</p> <p>7 Q. Even though it's not being held in 8 escrow, do you have an understanding of the 9 circumstances under which it will be distributed 10 in the future? Is it still the same thing when 11 there's a decision on what you're entitled to?</p> <p>12 A. Can you clarify?</p> <p>13 Q. The money is sitting there in an 14 estate account and a Shefa account. Do you 15 understand under what situation those moneys are 16 to be distributed?</p> <p>17 A. Well, I can't say there will be any 18 distribution unless the court makes the decision 19 or she comes to a settlement, Pewzner comes to a 20 settlement.</p> <p>21 Q. Let's say the court makes a 22 decision. Is it your understanding that those 23 moneys would then get paid to you from those 24 accounts?</p> <p>25 A. I don't know what the court will</p>	<p style="text-align: right;">Page 156</p> <p>1 Ruben Elberg 2 5 or Motion 6 or 7. These last three motions, 3 there should be transcripts there, and there 4 should be definitely clear understanding. 5 Look at the LOI, letter of intent, 6 it's spelled out clearly that the money would be 7 put in escrow. And it's also spelled out in the 8 merger documents. It's spelled out in the 9 transcript, Lieberman made a representation in 10 front of the Judge.</p> <p>11 Q. Has there been any statement by 12 your sister as to why it's not in escrow?</p> <p>13 A. Not to my knowledge.</p> <p>14 Q. Has there been any statement --</p> <p>15 A. They ignored it. When we brought 16 it up in front of Judge Ramos, they didn't even 17 address that issue.</p> <p>18 Q. Well, when you say in escrow, what 19 do you mean by that, are you talking about in a 20 special type of account?</p> <p>21 A. JPMorgan Chase was supposed to 22 establish an account with all the money that's 23 in dispute, and once there is a court decision, 24 that the moneys would be distributed 25 accordingly.</p>
<p style="text-align: right;">Page 155</p> <p>1 Ruben Elberg 2 decide. I hope there is a favorable decision in 3 my interests.</p> <p>4 Q. Have you sent or anyone on your 5 behalf sent any writings to your sister, a 6 letter, anything saying the moneys have to be 7 held in escrow?</p> <p>8 A. We made the representations in 9 court, they knew. They made the 10 representations, we made representations the 11 money is not in escrow, and it was ignored.</p> <p>12 Q. My question is, did somebody send a 13 letter or any other writing on your behalf to 14 your sister or her representatives saying this 15 money was supposed to be held in escrow?</p> <p>16 A. No. I can't say for sure, I don't 17 remember, possibly.</p> <p>18 Q. Or demand they be put into escrow?</p> <p>19 A. I don't remember. I can't say for 20 sure.</p> <p>21 Q. Can I get a copy of that transcript 22 where they made that representation to Justice 23 Ramos?</p> <p>24 A. It's online, it's in Motion 6. 25 Wait, I apologize. It should be online, Motion</p>	<p style="text-align: right;">Page 157</p> <p>1 Ruben Elberg 2 She paid \$5 million in taxes. She 3 left a substantial amount of money with the 4 buyers. She put the estate and me in jeopardy, 5 and I don't know what else I can say, and all 6 the people we owe money to.</p> <p>7 Q. Somewhere you gone to the 8 Surrogate's Court to complain about the issue?</p> <p>9 A. I can't discuss that matter, but we 10 will be taking action, whatever is necessary in 11 due time.</p> <p>12 Q. Well, back to my other question. 13 What kind of account did you expect it to be in, 14 one where you were a signatory?</p> <p>15 A. Where I had control and she had 16 control for the total amount of money.</p> <p>17 Q. But you both had to sign for any 18 money to come out?</p> <p>19 A. Yes.</p> <p>20 Q. But that hasn't been done?</p> <p>21 A. No.</p> <p>22 Q. What's your understanding of the 23 money in the hands of the buyers, when will that 24 be released?</p> <p>25 A. They're concerned that they have</p>

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<p style="text-align: right;">Page 158</p> <p>1 Ruben Elberg 2 liabilities. 3 Q. I understand, but that could be 4 just for a limited period? 5 A. I would say for a year or two or 6 three, I don't know. 7 Q. You don't know? 8 A. I don't have what she agreed with 9 them, this is not with my consent. 10 Q. Have you asked your sister, have 11 you asked the buyer? 12 A. I have no communications with her. 13 Q. Have you asked the buyer? 14 A. I have no communications with them. 15 Q. Have you tried? 16 A. No, I have not. 17 Q. Going back to Exhibit 3, the one in 18 front of you, the subpoena. Now, Number 7, I 19 assume you didn't look for anything because you 20 didn't have any securities? 21 A. I do not have any securities. 22 Q. You never had any securities? 23 A. I can't say that. 24 Q. Not since 2012? 25 A. No.</p>	<p style="text-align: right;">Page 160</p> <p>1 Ruben Elberg 2 I'm not asking that. 3 A. I don't want to deny my ownership 4 of RORE or, RREM. 5 Q. I'm not asking you to that. 6 A. No, I just want to be clear. 7 Q. Records reflecting ownership of any 8 vehicle, have you given us that? 9 A. I gave you the 2004 Honda Odyssey. 10 Q. You gave us documents on that? 11 A. I don't know if I did. If I 12 didn't, I'll provide that I own the car. 13 Q. So you need to go back and find 14 anything about any vehicles you've owned from 15 2012 to date? 16 A. That's my only vehicle. 17 Q. Records reflecting receipt of any 18 dividend, partnership distribution, or any other 19 form of income, including salary from 2012 to 20 date. You gave us your 2012 tax return. What 21 about any other documents showing, any other 22 kind of income since then? 23 A. No, nothing. 24 Q. You've had zero, not one penny of 25 income?</p>
<p style="text-align: right;">Page 159</p> <p>1 Ruben Elberg 2 Q. Did you give us -- 3 A. Excuse me, I might correct that, 4 forgive me. Isn't a share ownership in a 5 company a security? 6 Q. Yes. 7 A. Isn't that security? Well, then I 8 do have, I don't want to misstate anything or 9 deny my ownership. I own 200 shares in Merill, 10 I own 200 shares in Spindle, and I own 100 11 shares in Jerub. So those are securities I 12 believe I supplied you information on or you 13 have that information because Capital One is the 14 lender. 15 Q. Any other securities? 16 A. Nothing other than that, no. 17 MR. McCARTHY: Your ownership in 18 the entities in Paragraph 5, if that is 19 deemed a security. 20 A. Is that, they are not in share 21 ownership, I don't know, is that deemed as 22 securities? 23 Q. I think you could argue that. 24 A. What? 25 Q. I think you could argue that, but</p>	<p style="text-align: right;">Page 161</p> <p>1 Ruben Elberg 2 A. I told you I've been borrowing 3 money from my family, my children unfortunately, 4 and this \$350,000. 5 Q. There have been no distributions 6 out of the estate yet? 7 A. No. 8 MR. FORSTOT: Why don't we take a 9 five-minute break and organize. I'm pretty 10 much done, but I have a few more things. 11 We'll go off the record. 12 (Whereupon, a discussion was held 13 off the record.) 14 Q. Do you have to pay real estate 15 taxes on your house? 16 A. Yes. 17 Q. How much is that per year? 18 A. It's part of the \$2,600 payment. 19 Insurance and taxes are part of the \$2,600 20 payment. 21 Q. The mortgage servicer -- 22 A. Collects that. 23 Q. -- collects that and pays it? 24 A. Yes. 25 Q. As far as you know, that's all</p>

<p style="text-align: right;">Page 162</p> <p>1 Ruben Elberg 2 up-to-date, no arrearages there? 3 A. No. 4 Q. You're still co-executor of the 5 estate of your father, right? 6 A. Yes. 7 Q. The medallion entities that you 8 don't claim an interest in, are those all out on 9 the street and working? 10 A. Yes. 11 Q. Bringing in an income? 12 A. Yes. 13 Q. Do you know how much that is in 14 total per month? 15 A. I want to address that. I'm not, 16 just like she took the interests of, Pewzner 17 took the interest of the real estate and sold it 18 without my permission, when my father passed 19 away, there was no borrower. 20 Since there was no borrower, I had 21 to right away, as an executor, I had the 22 obligation not to be in default with Capital One 23 to transfer the medallions to my mother's name. 24 When I did that, I'm facing now a 25 problem with potentially Capital One coming</p>	<p style="text-align: right;">Page 164</p> <p>1 Ruben Elberg 2 that? 3 A. Except Pewzner, nobody. 4 Q. Is it your understanding as a 5 co-executor of the estate that those other 6 medallion entities are no longer part of the 7 estate, they're owned by your mother? 8 A. They're owned by my mother, but if 9 the estate as a guarantor owes something, I 10 think those medallions are part of the 11 guarantee, because if they owed money -- I don't 12 know if I'm understanding you correctly what 13 you're asking me. 14 Q. Those medallions are in individual 15 companies? 16 A. Correct. 17 Q. The company equity is owned 18 presently by the estate or your mother? 19 A. My mother. 20 Q. I understand the guarantee 21 obligation is still with the estate, of course, 22 is that what you're confusing? 23 A. I just don't want to be personally 24 liable for anything for transferring those 25 assets early to my mother, but I had to because</p>
<p style="text-align: right;">Page 163</p> <p>1 Ruben Elberg 2 after the estate that I'm an executor of for 3 transferring those assets that were, that had 4 Jacob Elberg's personal guarantees of the loans 5 of those assets. 6 She's been spending all those 7 moneys for legal fees and all kinds of things 8 that I don't know. I don't know if she's paying 9 Capital One, I don't know what she's doing 10 there. My mother is -- 11 MR. McCARTHY: The question was, do 12 you know what the medallions are 13 generating. 14 A. No, I have no control over those 15 assets, that's the problem. 16 Q. Are you aware of any of them that 17 aren't actually on a car and producing income? 18 A. I don't have that information. 19 Q. Is your mother supervising that? 20 A. My mother has a very poor 21 understanding of the real reality with the 22 documents and understanding loans. She believes 23 whatever she's being fed by my sister, 24 unfortunately. 25 Q. I'm asking, is somebody overseeing</p>	<p style="text-align: right;">Page 165</p> <p>1 Ruben Elberg 2 I had no choice. There had to be a borrower or 3 else those assets were in default. That's why I 4 transferred it to my mother early on. 5 Q. Maybe that's why there's a 6 confusion. What do you mean there had to be a 7 borrower? 8 A. Capital One when my father died 9 sent us a letter stating that we are in default 10 because there is no borrower and there's no 11 guarantor. 12 My father was the sole borrower and 13 guarantor on those medallions. So in order to 14 have a face behind the loans, it was eventually 15 supposed to be transferred to my mother. 16 So we transferred them to my mother 17 just to make sure there's a borrower and a 18 guarantor for those loans. 19 And I don't have control over what 20 transpires with expenditures, how Pewzner runs 21 those companies. 22 Q. So that transfer was something you 23 were involved with and you were okay with doing 24 it at the time? 25 A. I consulted with Mark Gallagher who</p>

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<p style="text-align: right;">Page 166</p> <p>1 Ruben Elberg 2 is Capital One's attorney, and he advised me we 3 had to do this, so I followed his advice because 4 I didn't want to be in default. 5 Q. Is there something he gave you in 6 writing that shows that? 7 A. I might have emails. I would have 8 to check. 9 Q. Other than Capital One, we know 10 Capital One is a creditor of your father's 11 estate. Are there any other creditors that you 12 know of of your father's estate? 13 A. I have no control of what Pewzner 14 paid or didn't pay. While I was involved, there 15 were some creditors. I don't know what of those 16 loans or obligations were paid or not, so I 17 don't have control over that. 18 Q. I'm not asking you about control. 19 What do you know of whether it's been paid or 20 not, what did you know of the other creditors of 21 the estate? 22 A. I don't have a recollection now. I 23 might have a spreadsheet, but there were, as I 24 told you, EB-5 investors, there were loans for 25 the real estate with Rosenthal & Rosenthal.</p>	<p style="text-align: right;">Page 168</p> <p>1 Ruben Elberg 2 A. I don't recall right now. I'm just 3 not settled, forgive me. 4 Q. The entities, the medallion 5 entities you claim an ownership interest in, do 6 they own any assets other than the medallions? 7 A. No. 8 Q. They don't own any vehicles? 9 A. Nothing, no. 10 Q. Do they have creditors other than 11 Capital One? 12 A. No. 13 Q. Do you have an understanding how 14 much the judgment Capital One has against you? 15 A. Yes. 16 Q. What do you understand that amount 17 to be? 18 A. Eight percent, 4.4. 19 Q. And you understand interest, post 20 judgment interest is running on that? 21 A. I want to pay you. Help me pay 22 you. 23 Q. I'm asking if you know that. 24 A. I understand. 25 Q. Assuming you don't win on the</p>
<p style="text-align: right;">Page 167</p> <p>1 Ruben Elberg 2 There were moneys that had to be 3 paid back to the medallion companies once a sale 4 or a refinancing took place in the real estate. 5 Eventually some money had to go back to the taxi 6 companies that were borrowed. 7 Q. You say the taxi companies, you 8 mean the companies that owned the medallions? 9 A. Yes. I would say those are 10 creditors. 11 Q. Any other creditors you're aware 12 of? 13 A. I'm just telling you off the top of 14 my head what I remember, but there might be 15 more, I don't know. 16 Q. Do you have an amount in mind or 17 did you understand what was owed in total to 18 creditors other than Capital One of your 19 father's estate? 20 A. I don't have a number, no. I don't 21 remember. 22 Q. Did you ever know that? 23 A. Possibly, yes, I might have some 24 information on that. 25 Q. Can you recall any information now?</p>	<p style="text-align: right;">Page 169</p> <p>1 Ruben Elberg 2 contested issues between you and your sister, 3 what's your thinking about how you might be able 4 to pay your debt off to Capital One? 5 A. Whether I win or not, the fact is 6 there's a trail that the medallions lent money 7 to the LLCs, and the moneys were supposed to go 8 back to the medallion companies. 9 So one way or another, Capital One 10 has to get paid, and nobody is trying to duck. 11 I want to make sure you get paid, but I need 12 your help to be able to achieve that. 13 I've never defaulted with Capital 14 One with anything until my father passed away, 15 and I was continuing to make the payments. 16 Capital One sent me emails they 17 were going to extend the loans, and instead of 18 extending the loans, they started the 19 foreclosure action. 20 Q. You say you have emails from 21 Capital One? 22 A. From Capital One, clearly they were 23 going to extend the loans, it was supposed to go 24 through 2017. They sent me emails. 25 Q. Where are those emails today?</p>

<p style="text-align: right;">Page 170</p> <p>1 Ruben Elberg 2 A. I have them. 3 Q. Anything else as far as you're 4 thinking about being able to pay the debt back? 5 A. Irrelevant of who owns those 6 assets, whether the estate or Class C interest 7 or RORE or RREM or the medallion companies, 8 there's a track record how the money was flowed, 9 the money has to be paid back. I have an 10 interest to do that, but I'm being hindered. 11 Q. Do you have any thoughts about 12 getting a job and paying part of your income 13 toward your debts? 14 A. I don't think that's going to pay 15 you so fast. 16 Q. It may not, but I'm asking if you 17 have any thoughts about that. 18 A. I'm looking at potentially getting 19 into the brokerage business, and I have a good 20 understanding of real estate. And I'm seriously 21 thinking of going into the brokerage, but the 22 licensing has not been achieved yet, it's going 23 to take a couple of months. 24 And I think sooner than that we can 25 resolve these issues if we work together in a</p>	<p style="text-align: right;">Page 172</p> <p>1 Ruben Elberg 2 house. I can't even borrow against the house 3 now. 4 Q. Getting a job would get you some 5 income. 6 A. That's what I'm working on. 7 Unfortunately, being tied up with all these 8 litigations, I don't want to start working for a 9 few thousand dollars a month and not pay four 10 and a half million dollars in debt that I have. 11 And I have money that's sitting in an account 12 that's eventually supposed to be repaying those 13 loans. 14 Q. You're not going to get a job 15 because? 16 A. The moneys are in the estate 17 account and in the Shefa accounts. I want to 18 resolve my obligations. I don't want to be 19 haunted by people because I have never, ever, 20 ever not paid my bills. 21 Q. But getting a job would actually 22 help you by starting to reduce the debt a little 23 bit. 24 A. I'm working on it, I'm working on 25 it. Unfortunately, I've been overwhelmed with</p>
<p style="text-align: right;">Page 171</p> <p>1 Ruben Elberg 2 fair and amicable way to get the truth, and to 3 get to the truth and to get you what you 4 deserve. 5 Q. Have you asked for any loans from 6 anybody to try to help pay the debt down? 7 A. No. I don't have any, all my 8 assets are tied up. When people lend you money, 9 they lend you money on assets. All my assets 10 are tied up. 11 Q. You still have equity in your 12 house, right? 13 A. Not really, it's practically gone. 14 Q. How do you know that if you don't 15 know the value of the house? 16 A. It's somewhere in the million 17 dollar range, you know. What equity do I have 18 if I owe \$800,000, what kind of equity do I have 19 there, there's practically nothing left. 20 Q. Have you asked for a loan to be 21 secured by whatever equity you have left? 22 A. No, I cannot, and that's because I 23 don't have income to prove. I can't even 24 refinance my house to prove that I have 25 additional income so I can borrow against the</p>	<p style="text-align: right;">Page 173</p> <p>1 Ruben Elberg 2 these things. 3 Q. When you say overwhelmed with these 4 things -- 5 A. With the litigations. 6 Q. It doesn't take up all day every 7 day, you can actually work, right, do you agree? 8 A. I will work on that. Thank you for 9 the recommendation, I will work on it. 10 Q. So there are documents you still 11 need to get to us. I mean, I don't want to get 12 into a dispute whether you made a good faith 13 effort to find them. 14 MR. FORSTOT: So what I'll do then 15 is hold this deposition open. 16 Q. When do you think you can get all 17 the documents we talked about, the bank 18 statements and the other documents to us? 19 A. Tell us what you need, and I'll try 20 to work on getting it. 21 Q. We did send you a letter. 22 MR. FORSTOT: I'll send your 23 counsel a letter saying these are the 24 documents we talked about in the 25 deposition. If you like, I can tell you we</p>

<p>1 Ruben Elberg 2 would like them in a week. 3 MR. McCARTHY: For scheduling 4 purposes, I'm going to be out of the 5 country from July 8th to July 18th, so we 6 would like some time beyond that. If I can 7 get them to you before -- 8 MR. FORSTOT: If we get the letter 9 to you this week, we can get some, if not 10 all of them. 11 MR. McCARTHY: I'll try to get them 12 to you. 13 MR. FORSTOT: What I'll do is I'll 14 look at them, and if we don't really have 15 any questions or any questions, we don't 16 have to get together again. But if we do, 17 then we do, just to finish this, all right. 18 Do you have any questions for your 19 client? 20 MR. McCARTHY: No, I don't have any 21 questions. I'm just going to put on the 22 record that I'm going to state my objection 23 to holding it open, but obviously we can 24 come to an agreement. 25 MR. FORSTOT: That's it, we're off</p>	<p>Page 174</p> <p>1 2 INDEX 3 WITNESS EXAMINATION BY PAGE 4 Ruben Elberg Mr. Forstot 4 5 6 E X H I B I T S 7 PLAINTIFF'S DESCRIPTION PAGE 8 Exhibit 3 Subpoena duces tecum 58 9 Exhibit 4 Eight pages of Capital One 10 bank statements 70 11 Exhibit 5 Alma Bank Personal 12 Financial Statement 83 13 Exhibit 6 Capital One Bank Personal 14 Financial Statement 85 15 Exhibit 7 Wilshire State Bank 16 Personal Financial 17 Statement 88 18 Exhibit 8 Capital One Bank Personal 19 Financial Statement 88 20 Exhibit 9 2012 1040 U.S. Individual 21 Income Tax Return 102 22 23 24 25</p> <p>Page 176</p> <p>1 2 CERTIFICATION 3 4 I, Alice Schulman, a Notary Public for and 5 within the State of New York, do hereby certify: 6 That the witness whose testimony as herein 7 set forth, was duly sworn by me; and that the 8 within transcript is a true record of the 9 testimony given by said witness. 10 I further certify that I am not related to 11 any of the parties to this action by blood or 12 marriage, and that I am in no way interested in 13 the outcome of this matter. 14 IN WITNESS WHEREOF, I have hereunto set my 15 hand this 27th day of June, 2017. 16 17 18 19 <i>Alice Schulman</i> 20 ALICE SCHULMAN 21 22 23 24 25</p>
<p>1 Ruben Elberg 2 the record. 3 4 [TIME NOTED: 2:19 p.m.] 5 6 _____ 7 RUBEN ELBERG 8 Subscribed and sworn to before me 9 this ____ day of _____, 2017. 10 11 _____ 12 NOTARY PUBLIC 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>Page 175</p> <p>Page 177</p>

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